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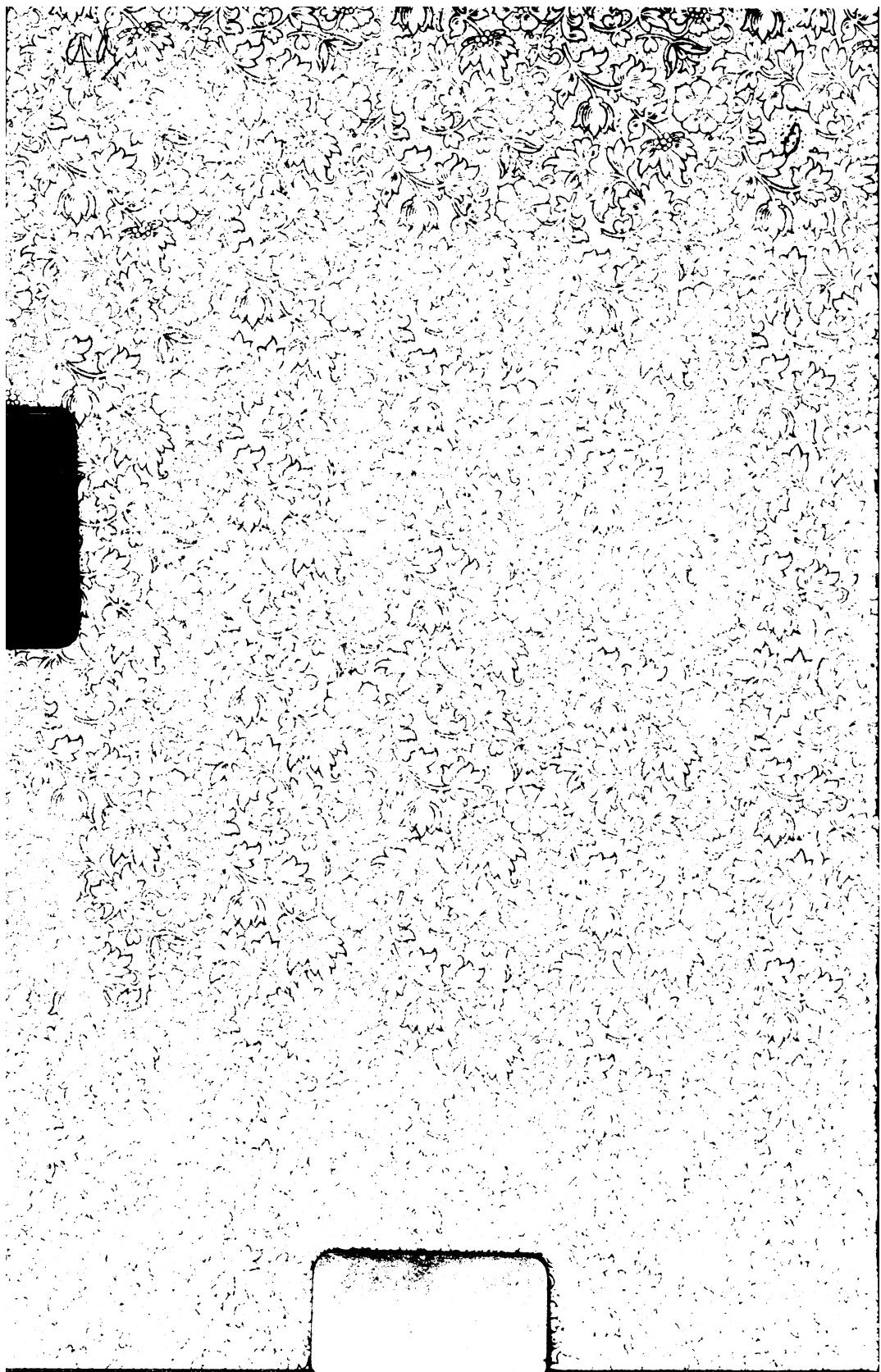
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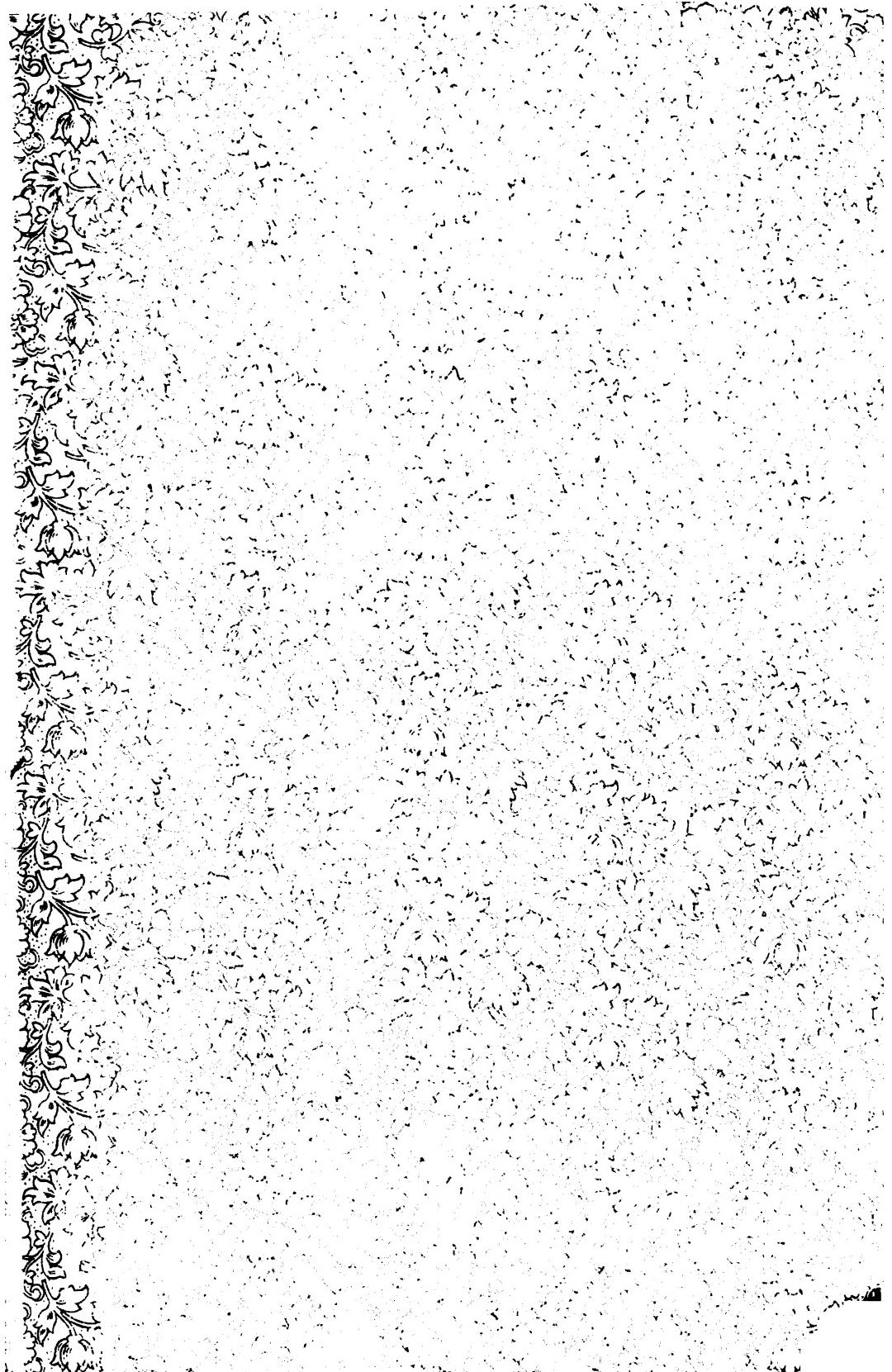
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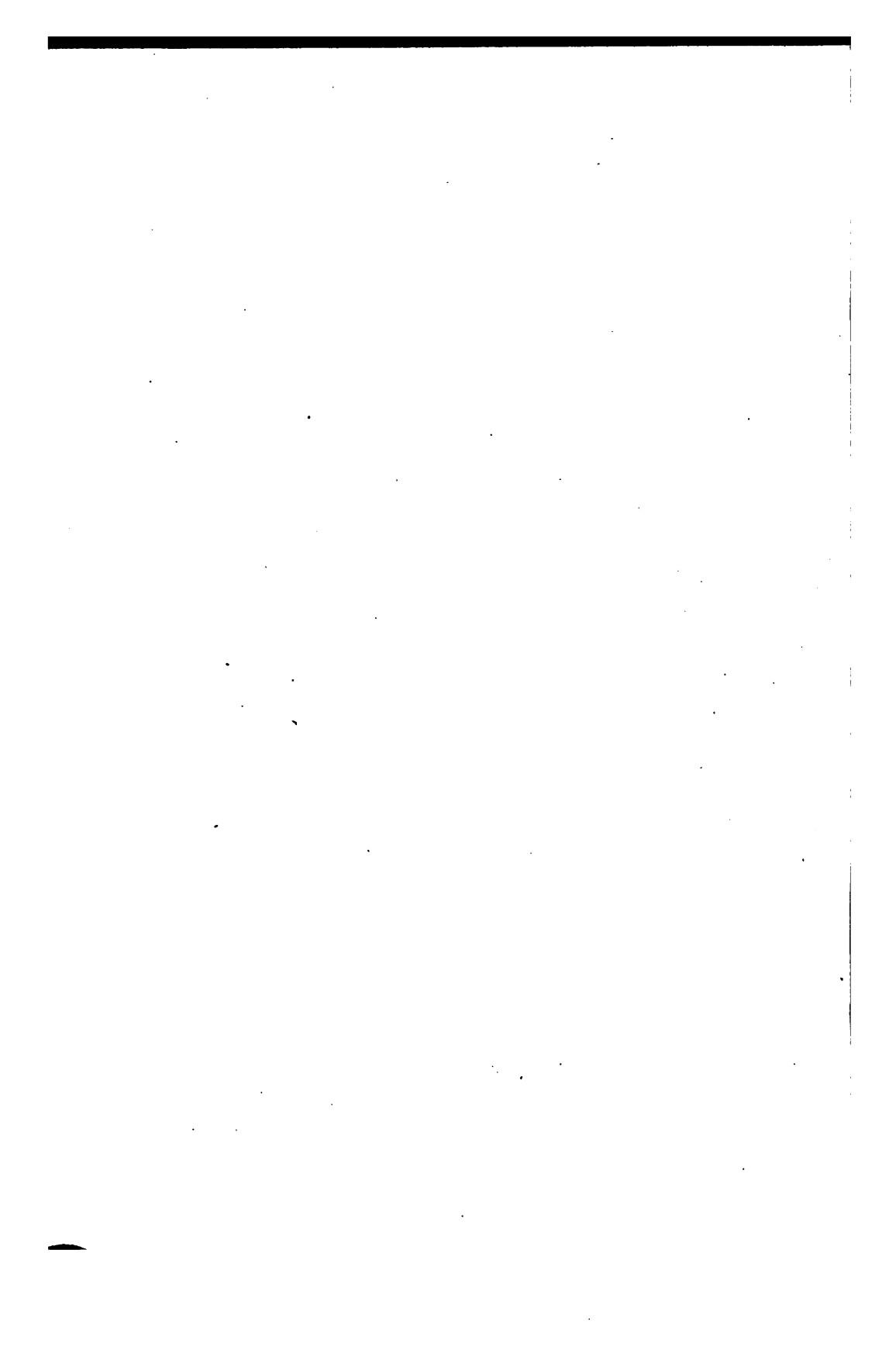
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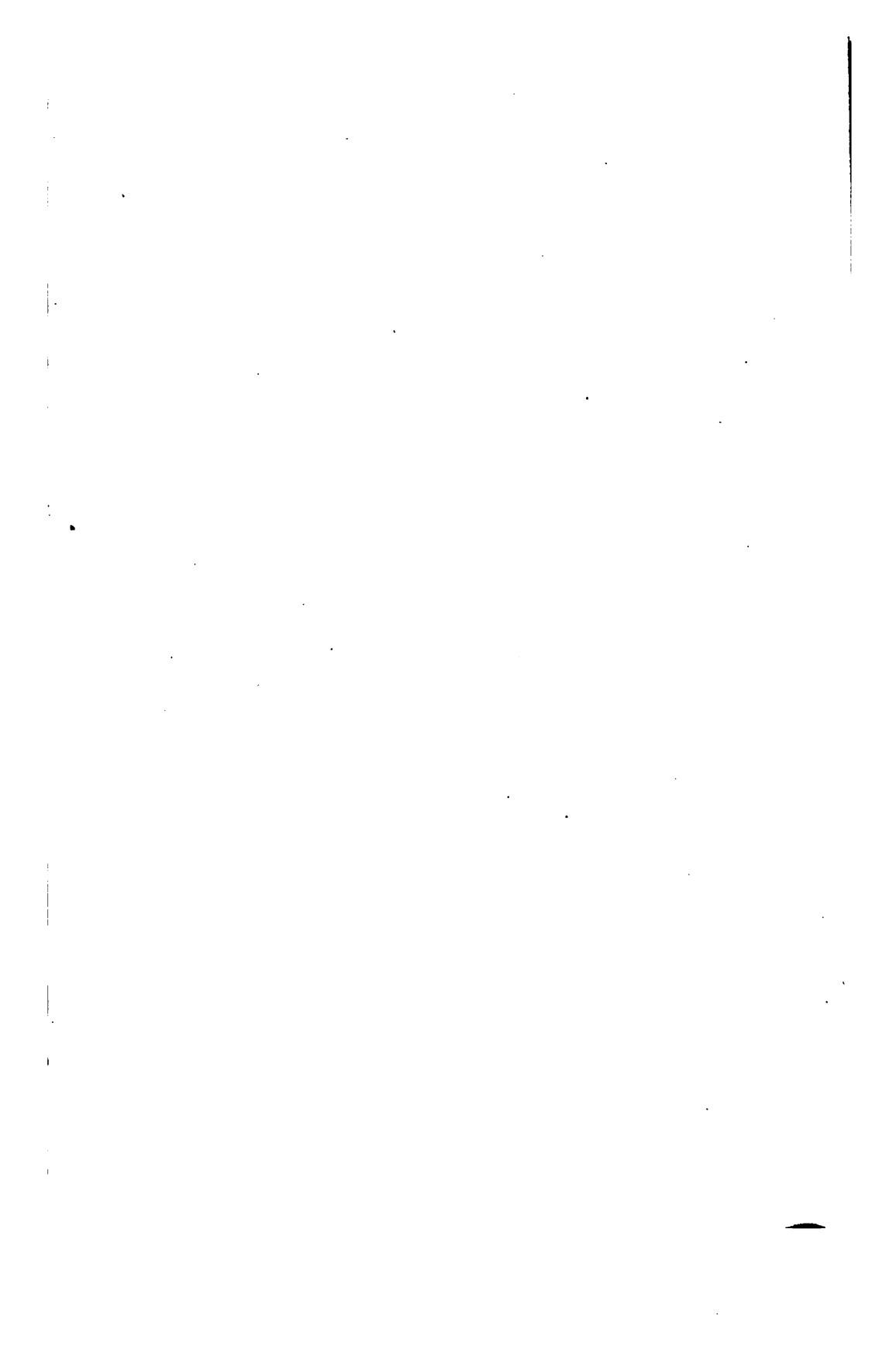
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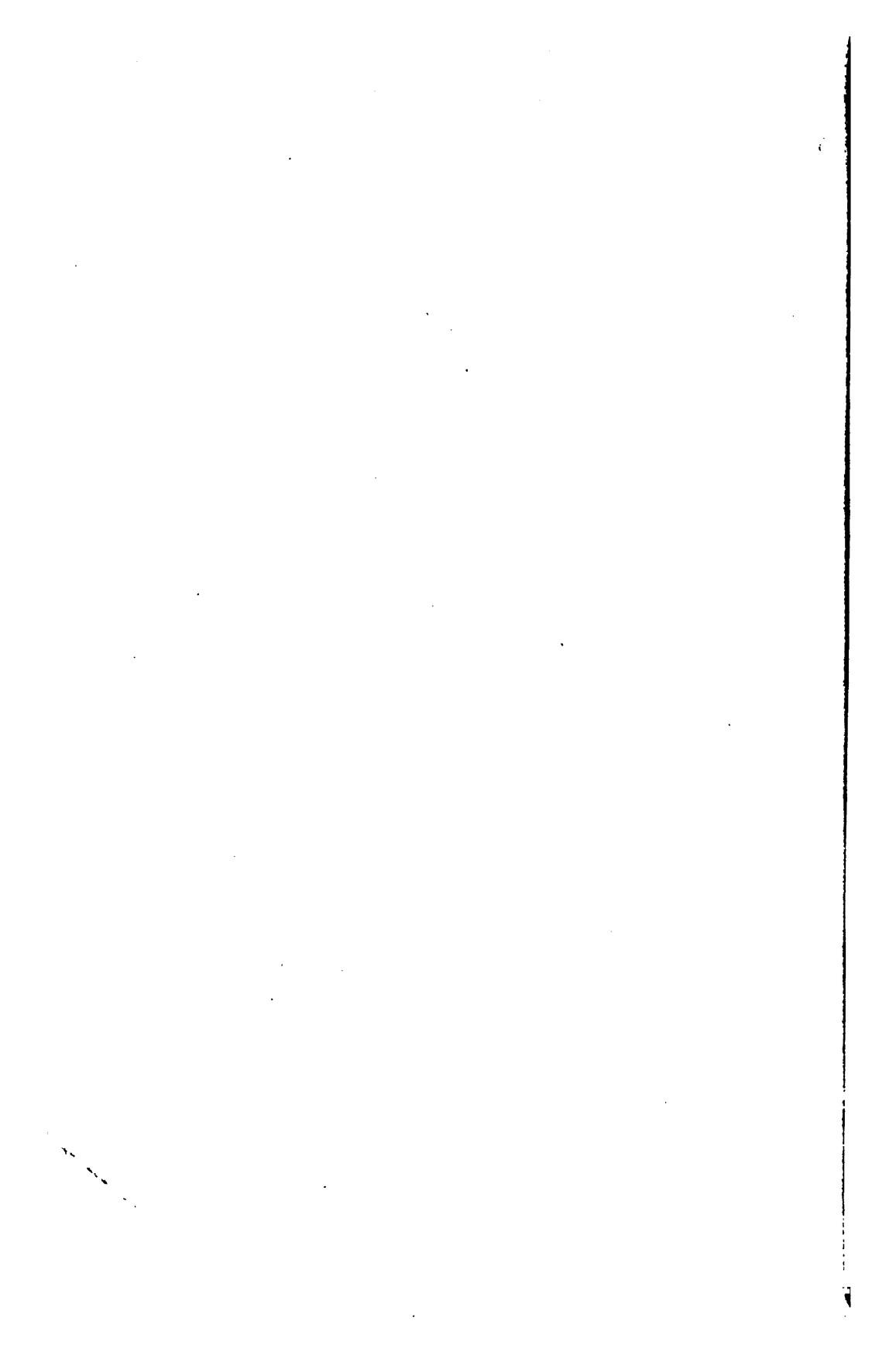
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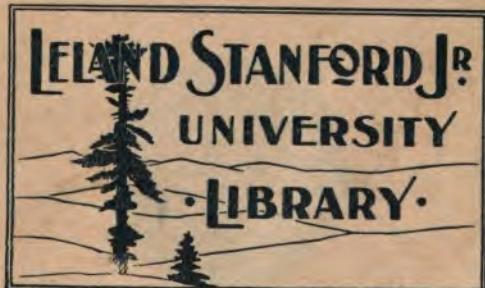
GENERAL LAWS,  
AMENDMENTS TO THE CODES,

AND PROPOSED

CONSTITUTIONAL AMENDMENTS,

PASSED AT THE THIRTY-FIRST SESSION OF THE LEGISLATURE  
OF THE STATE OF CALIFORNIA.

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**AUTHORITY FOR PUBLICATION.**

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*Senate Concurrent Resolution No. 11, relative to printing amendments to the Constitution and Codes, for free distribution.*

[Introduced by Mr. Withington. Adopted March 16, 1895.]

*Resolved by the Senate, the Assembly concurring, That the State Printer be instructed to cause to be prepared and printed an edition of thirty thousand copies of the general laws, amendments to the codes, and proposed constitutional amendments passed at this session, the same to be stitched, but not bound or covered, and to be distributed, under the direction of the Secretary of State, to the County Clerks of the various counties, in proportion to the population of the different counties, for free distribution to the electors thereof.*

**Withdrawn. L. S. J. U.**

# GENERAL LAWS OF 1895.

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PASSED AT THE THIRTY-FIRST SESSION OF THE CALIFORNIA LEGISLATURE.

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## CHAPTER I.

*An Act to repeal an Act entitled "An Act fixing a bounty on coyote scalps," approved March 31, 1891.*

[Approved January 24, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. An Act entitled "An Act fixing a bounty on coyote scalps," approved March thirty-first, eighteen hundred and ninety-one, is hereby expressly repealed.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER II.

*An Act to amend an Act entitled "An Act to establish a uniform system of county and township governments," approved March 24, 1893, by amending section one hundred and sixty-two, relating to the classification of counties, and section two hundred and sixteen, providing for certain deputies and certain fees, and to insert a new section to be number one hundred and seventy and one half, and to create a new class of counties of the eighth and one half class, relating to the government of counties.*

[Approved January 25, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one hundred and sixty-two of said Act is amended so as to read as follows:

Section 162. For the purpose of regulating the compensation of all officers hereinbefore provided for, the several counties of this State are hereby classified, and shall herein remain classified, according to their population as ascertained by the Federal census taken the year eighteen hundred and ninety, or as otherwise provided in this Act, to wit:

All counties containing a population of two hundred thousand inhabitants and over shall belong to and be known as counties of the first class.

Counties containing a population of one hundred thousand and under two hundred thousand shall belong to and be known as counties of the second class.

Counties containing a population of ninety thousand and under one hundred thousand inhabitants shall belong to and be known as counties of the third class.

Counties containing a population of forty-five thousand and under ninety thousand shall belong to and be known as counties of the fourth class.

Counties containing a population of forty thousand and under forty-five thousand shall belong to and be known as counties of the fifth class.

Counties containing a population of thirty-four thousand and under forty thousand shall belong to and be known as counties of the sixth class.

Counties having a population of thirty-two thousand five hundred and under thirty-four thousand shall belong to and be known as counties of the seventh class.

Counties having a population of thirty-two thousand and under thirty-two thousand five hundred shall belong to and be known as counties of the eighth class.

Counties having a population of thirty thousand and under thirty-two thousand shall belong to and be known as counties of the eighth and one half class.

Counties having a population of twenty-eight thousand and under thirty thousand shall belong to and be known as counties of the ninth class.

Counties having a population of twenty-five thousand and under twenty-eight thousand shall belong to and be known as counties of the tenth class.

Counties having a population of twenty-four thousand and under twenty-five thousand shall belong to and be known as counties of the eleventh class.

Counties having a population of twenty-three thousand and under twenty-four thousand shall belong to and be known as counties of the twelfth class.

Counties having a population of twenty thousand and under twenty-three thousand shall belong to and be known as counties of the thirteenth class.

Counties having a population of nineteen thousand and under twenty thousand shall belong to and be known as counties of the fourteenth class.

Counties having a population of eighteen thousand and under nineteen thousand shall belong to and be known as counties of the fifteenth class.

Counties having a population of seventeen thousand nine hundred and under eighteen thousand shall belong to and be known as counties of the sixteenth class.

Counties having a population of seventeen thousand five hundred and under seventeen thousand nine hundred shall belong to and be known as counties of the seventeenth class.

Counties having a population of seventeen thousand and

under seventeen thousand five hundred shall belong to and be known as counties of the eighteenth class.

Counties having a population of sixteen thousand four hundred and under seventeen thousand shall belong to and be known as counties of the nineteenth class.

Counties having a population of sixteen thousand and under sixteen thousand four hundred shall belong to and be known as counties of the twentieth class.

Counties having a population of fifteen thousand seven hundred and under sixteen thousand shall belong to and be known as counties of the twenty-first class.

Counties having a population of fifteen thousand and under fifteen thousand seven hundred shall belong to and be known as counties of the twenty-second class.

Counties having a population of fourteen thousand and under fifteen thousand shall belong to and be known as counties of the twenty-third class.

Counties having a population of thirteen thousand five hundred and eighty and under fourteen thousand shall belong to and be known as counties of the twenty-fourth class.

Counties having a population of thirteen thousand five hundred and under thirteen thousand five hundred and eighty shall belong to and be known as counties of the twenty-fifth class.

Counties having a population of thirteen thousand and under thirteen thousand five hundred shall belong to and be known as counties of the twenty-sixth class.

Counties having a population of twelve thousand five hundred and under thirteen thousand shall belong to and be known as counties of the twenty-seventh class.

Counties having a population of twelve thousand one hundred and sixty and under twelve thousand five hundred shall belong to and be known as counties of the twenty-eighth class.

Counties having a population of twelve thousand and under twelve thousand one hundred and sixty shall belong to and be known as counties of the twenty-ninth class.

Counties having a population of ten thousand three hundred and under twelve thousand shall belong to and be known as counties of the thirtieth class.

Counties having a population of ten thousand and eighty and under ten thousand three hundred shall belong to and be known as counties of the thirty-first class.

Counties having a population of ten thousand and seventy and under ten thousand and eighty shall belong to and be known as counties of the thirty-second class.

Counties having a population of ten thousand and under ten thousand and seventy shall belong to and be known as counties of the thirty-third class.

Counties having a population of nine thousand nine hundred and under ten thousand shall belong to and be known as counties of the thirty-fourth class.

Counties having a population of nine thousand eight hundred and under nine thousand nine hundred shall belong to and be known as counties of the thirty-fifth class.

Counties having a population of nine thousand six hundred and under nine thousand eight hundred shall belong to and be known as counties of the thirty-sixth class.

Counties having a population of nine thousand and under nine thousand six hundred shall belong to and be known as counties of the thirty-seventh class.

Counties having a population of eight thousand five hundred and under nine thousand shall belong to and be known as counties of the thirty-eighth class.

Counties having a population of eight thousand and under eight thousand five hundred shall belong to and be known as counties of the thirty-ninth class.

Counties having a population of seven thousand and under eight thousand shall belong to and be known as counties of the fortieth class.

Counties having a population of six thousand four hundred and under seven thousand shall belong to and be known as counties of the forty-first class.

Counties having a population of six thousand and under six thousand four hundred shall belong to and be known as counties of the forty-second class.

Counties having a population of five thousand four hundred and under six thousand shall belong to and be known as counties of the forty-third class.

Counties having a population of five thousand and under five thousand four hundred shall belong to and be known as counties of the forty-fourth class.

Counties having a population of four thousand nine hundred and eighty and under five thousand shall belong to and be known as counties of the forty-fifth class.

Counties having a population of four thousand nine hundred and under four thousand nine hundred and eighty shall belong to and be known as counties of the forty-sixth class.

Counties having a population of four thousand and under four thousand nine hundred shall belong to and be known as counties of the forty-seventh class.

Counties having a population of three thousand seven hundred and eighty and under four thousand shall belong to and be known as counties of the forty-eighth class.

Counties having a population of three thousand seven hundred and under three thousand seven hundred and eighty shall belong to and be known as counties of the forty-ninth class.

Counties having a population of three thousand five hundred and under three thousand seven hundred shall belong to and be known as counties of the fiftieth class.

Counties having a population of two thousand five hundred and under three thousand five hundred shall belong to and be known as counties of the fifty-first class.

Counties having a population of two thousand and under two thousand five hundred shall belong to and be known as counties of the fifty-second class.

Counties having a population of under two thousand shall belong to and be known as counties of the fifty-third class.

SEC. 2. A new section is hereby added to said Act, to be numbered one hundred and seventy and one half, as follows:

Section 170½. In counties of the eighth and one half class, county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The County Clerk, seven thousand six hundred dollars per annum.
2. The Sheriff, eight thousand dollars per annum.
3. The Recorder, the fees now allowed by law pertaining to said Recorder's office; *provided*, that all books of record, printing, and stationery shall be furnished and paid for by the Recorder out of his fees. The style and quality of the same to be approved by the Board of Supervisors.
4. The Auditor, five thousand five hundred dollars per annum.
5. The Treasurer, three thousand dollars per annum.
6. The Tax Collector, seven thousand dollars per annum.
7. The Assessor, four thousand dollars per annum, and such fees as are allowed by law.
8. The District Attorney, five thousand dollars per annum.
9. The Superintendent of Public Schools, twenty-five hundred dollars per annum.
10. The Public Administrator, such fees as are now or may hereafter be allowed by law.
11. The Coroner, five hundred dollars per annum.
12. The Surveyor, such fees as are now or may hereafter be allowed by law.
13. The Constable, such fees as are hereby or may be allowed by law.
14. The Justices of the Peace, such fees as are hereby or may hereafter be allowed by law.
15. The Supervisors, five hundred dollars per annum, and fifteen cents per mile in going from their residences to the county seat at each meeting of the Board. Also, four hundred dollars per annum each, and mileage now allowed by law, for services as Road Commissioners.
16. Each county and township officer shall be responsible on his official bond for the official accounts of each of his deputies, and may at his own pleasure revoke the appointment of any of said deputies.
17. No county officer, deputy, or clerk employed in any of the offices of counties of this class shall be permitted to perform the services of a Notary Public while in the employ of the county.
18. The following county and township officers shall charge and collect the following fees:

COUNTY CLERK.

On the commencement of any action or proceeding in the Superior Court, except probate proceedings, or on an appeal thereto, to be paid by the party commencing such action or

proceeding, or taking such appeal, five dollars. On the filing of a petition for letters of administration, testamentary, or guardianship, five dollars, to be paid by the petitioner; *provided*, that at the time of filing the inventory and appraisement in any such proceeding there shall be an additional deposit of five dollars when the appraised valuation exceeds five hundred dollars and is under ten thousand dollars, and an additional ten dollars when the appraised valuation is ten thousand dollars or over. On the appearance of any defendant, or any number of defendants answering jointly, to be paid upon filing the first paper in the action by him or them, two dollars. For every additional defendant appearing separately, to be paid as provided, one dollar. The foregoing fees shall be in full for all services rendered by such Clerk in the cause, to and including the making up of the judgment roll. One dollar of the amount paid on the commencement of each action or proceeding shall belong to and be paid to the Law Library Fund, as provided by law. On the filing of any notice of motion to move for a new trial of any civil action or proceeding, the party filing same shall pay to the Clerk, in full for all services to be rendered in connection with said motion, except as hereinafter in this section provided, three dollars. The Clerk shall also charge and collect the following fees and compensation not above provided for: For any copy of any record, proceeding, or paper on file in the office of the Clerk relating to any civil action pending in said Court, where such copy is made by him, per folio, ten cents. For each certificate of the Clerk, under the seal of the Court, twenty-five cents. For filing each claim in probate or insolvency proceedings, fifteen cents. No fees shall be allowed or charged by the Clerk for services rendered in any criminal case. For services rendered by the Clerk, not in connection with civil actions or proceedings in Court, he shall charge and collect, for the benefit of the county, the following fees: For issuing marriage license, one half to be paid to the County Recorder, two dollars. For recording the testimony upon examination of insane persons, when it is ascertained by the Judge of the Superior Court that the person committed has property sufficient wherewith to pay the expenses of his commitment, per folio, ten cents. For filing and indexing all papers to be kept by him, other than papers filed in actions or proceedings in Court, and official bonds and certificates of appointment, each, twenty-five cents. For issuing any license required by law, other than marriage licenses, one dollar. For examining and certifying to a copy of any paper, record, or proceeding prepared by another, and presented for his certificate, fifty cents. For making satisfaction of or credit on judgment, twenty-five cents. For receiving and filing remittituir from Supreme Court, fifty cents. For administering each oath, without certificate, except in a pending action or proceeding, ten cents. For taking any affidavit, except in pending actions or proceedings, and certifying same, twenty-five cents. For taking and approving each undertaking and the justification thereof, except in pending actions or proceedings, fifty cents.

For searching records or files, fifty cents. For taking acknowledgment of any deed or other instrument, including the certificate, fifty cents. For filing notices of appeal and appeal bonds, each, ten cents.

SHERIFF.

For serving any process, writ, order, or paper required by law to be served by the Sheriff, fifty cents. For serving a writ of attachment, execution, or order for the delivery of personal property, one dollar. For taking any bond or undertaking, fifty cents. For serving an attachment or execution on any ship, boat, or vessel, three dollars. For keeping and caring for property under attachment or execution, such sum as the Court may fix; *provided*, that no greater sum than two dollars per day shall be allowed to a keeper, when necessarily employed. For a copy of any writ, process, or paper actually made by him, when required or demanded according to law, per folio, ten cents; *provided*, that when correct copies are furnished to him for use, no charge shall be made for such copies. For advertising sale of property and posting notice, or furnishing notice for publication, each, fifty cents. For publication of notice in newspaper, such sum as he may be required to pay for such publication, not exceeding seventy-five cents per square for the first insertion, twenty-five cents for the second insertion, and fifteen cents for each insertion thereafter. For serving writ of possession or restitution, one dollar and fifty cents. For subpoenaing witness, including copy of subpoena, each, twenty-five cents. For summoning trial jury of twelve or less, two dollars; for each additional juror, fifteen cents. For traveling in the service of any paper required by law to be served, for each mile actually and necessarily traveled, one way only, fifteen cents. No constructive mileage to be allowed. For collecting money on execution, with or without levy, one per cent. For executing and delivering Sheriff's deed, one dollar and fifty cents. For executing and delivering certificate of sale, fifty cents.

RECORDER.

For recording every instrument, paper, or notice required by law to be recorded, per folio, ten cents. For indexing every instrument, paper, or notice, for each name, ten cents. For filing every instrument for record, and making the necessary entries thereon, fifteen cents. For each certificate under seal, twenty-five cents. For every entry of discharge, credit, or release on the margin of record, and indexing same, twenty-five cents. For searching the records of his office, for each year, fifty cents. For abstract of title, for each conveyance or incumbrance, twenty-five cents. For recording each map or plat, for each course, ten cents. For figures or letters on maps or plats, per folio, ten cents; *provided*, that the fees for filing and recording any map shall not exceed fifty dollars. For taking acknowledgment of any instrument, fifty cents. For recording marriage license and certificate, to be paid by the County Clerk,

one dollar. For recording transcript and all services in estray cases, one dollar. For recording each mark or brand, seventy-five cents. For administering each oath or affirmation, and certifying the same, twenty-five cents. For filing, indexing, and keeping each paper not required by law to be recorded, twenty-five cents.

The Clerk, Sheriff, and Recorder shall account for all fees in this section provided for, and the Clerk and Sheriff shall pay the same to the County Treasurer on the first Monday of the month following their collection, as provided in this Act.

JUSTICES OF THE PEACE.

Justices of the Peace may, for their own use, collect the following fees, and no others: For filing each paper, five cents. For issuing each process, writ, order, or paper required by law to be issued, twenty-five cents. For entering every cause on the docket, and indexing same, fifty cents. For administering oath or affirmation, ten cents. For each certificate or affidavit, twenty-five cents. For entering final judgment not exceeding two folios, fifty cents; for additional folio, ten cents. For taking and approving bond or undertaking, including the justification of sureties, fifty cents. For taking depositions, per folio, ten cents. For entering satisfaction of judgment, twenty-five cents. For copy of his docket or any file of his office, when required to make the same, per folio, ten cents. For certifying transcript on appeal and transmitting papers, fifty cents. For celebrating marriage and making return thereof to the Recorder, five dollars. For all services in any criminal trial or proceeding, three dollars. For entering cause without process, fifty cents. For entering judgment by confession, one dollar. For entering every motion, rule, exception, or default, fifteen cents. For taking the acknowledgment of any deed or instrument, fifty cents. For all charges for transmitting papers on change of venue, one dollar. For holding inquest, when the Coroner fails to act, five dollars. For each mile necessarily traveled in going to place of inquest, fifteen cents. For directing or attending the interment of each body upon which he may have held an inquest, two dollars.

CONSTABLE.

For serving summons and complaint, for first party served, fifty cents; for each additional defendant served, twenty-five cents. For each copy of summons for service, when made by him, twenty-five cents. For levying writ of attachment or execution, or executing order of arrest, or for the delivery of personal property, one dollar. For serving writ of attachment or execution on any ship, boat, or vessel, three dollars. For keeping personal property, such sum as the Court may order; but no more than two dollars per day shall be allowed for a keeper when necessarily employed. For taking bond or undertaking, fifty cents. For copies of writs and other papers, except summons, complaint, and subpœnas, per folio, ten cents; pro-

*vided*, that when correct copies are furnished to him for use, no charge shall be made for such copies. For serving any writ, notice, or order, except summons, complaint, or subpœnas, for the first person, fifty cents; on each subsequent person, twenty-five cents. For writing and posting each notice of sale of property, twenty-five cents. For furnishing notice for publication, twenty-five cents. For serving subpœnas, each witness, including copy, twenty-five cents. For collecting money on execution, one and one half per cent. For executing and delivering certificate of sale, fifty cents. For executing and delivering Constable's deed, one dollar and fifty cents. For each mile actually traveled within his township in the service of any writ, order, or paper, except a warrant of arrest, in going only, per mile, twenty-five cents. For traveling outside of his township to serve such writ, order, or paper, in going out, fifteen cents; *provided*, that a Constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage allowed. For each mile traveled within his township in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents. For each mile traveled out of his township, both going and returning from place of arrest, five cents; *provided*, that no warrant of arrest or other criminal process shall be served by any Constable out of his township, and mileage charged therefor, except such service be ordered, in writing, by the District Attorney of the county; and *provided further*, that for traveling in the performance of two or more official services at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged. For arresting prisoner and bringing him into Court, one dollar. For summoning a jury, one dollar and fifty cents; *provided*, that the Board of Supervisors may reject all bills presented to the county by Justices of the Peace and Constables for fees in criminal cases in all cases of proceedings in which the District Attorney has not, in writing, authorized the issuance of the warrant of arrest.

County officers must, and township officers may, demand the payment of all fees in advance.

19. Jurors' and witness' fees shall be as follows:

#### JURORS' FEES.

For attending as a juror in the Superior Court, for each day's attendance, per day, two dollars. For each mile actually traveled in attending Court as a juror, in going only, per mile, fifteen cents.

#### WITNESS FEES.

For each day's actual attendance, when legally required to attend upon the Superior Court, per day, one dollar and fifty cents. Mileage actually traveled, one way only, per mile, fifteen cents. For each day's attendance upon Justice Court, when

legally required to attend, per day, one dollar. For each mile actually traveled, in going only, fifteen cents. Witnesses in civil cases may demand the payment of their fees and mileage for one day in advance, and when so demanded shall not be compelled to attend until the same shall have been paid.

SEC. 3. Section two hundred and sixteen of said Act is hereby amended so as to read as follows:

Section 216. The salaries and fees provided in this Act shall be in full compensation for all services of every kind and description rendered by the officers therein named, either as officers or *ex officio* officers, their deputies and assistants, unless in this Act otherwise provided; and all deputies employed shall be paid by their principals out of the salaries hereinbefore provided, unless in this Act otherwise provided; *provided, however,* the Assessor shall be entitled to receive and retain for his own use six per cent on personal property tax collected by him, as authorized by section three thousand eight hundred and twenty of the Political Code, and fifteen per cent of all amounts collected by him for poll taxes and road poll taxes, and also five dollars per hundred names of persons returned by him as subject to military duty, as provided in section one thousand nine hundred and one of the Political Code; *provided, however,* that in counties of the second class the percentage received by the Assessor on poll taxes and personal property taxes, and also amounts allowed for returning names of persons subject to military duty, and which in counties of the other classes is allowed to the Assessor as compensation, shall be paid by him into the County Treasury, and no part thereof shall be retained by him as compensation, and all expenses in collecting the same shall be paid by the county; and *provided further,* that the Board of Supervisors shall allow to the Sheriff his necessary expenses for pursuing criminals or transacting any criminal business without the boundaries of his county, and for boarding prisoners in the county jail; *provided,* that the Board of Supervisors shall fix the price at which such prisoners shall be boarded, if not otherwise provided for in this Act; *provided further,* that the Sheriff shall be entitled to receive and retain for his own use five dollars per diem for conveying prisoners to and from the State Prison, and for conveying persons to and from the insane asylums, or other State institutions; also all expenses necessarily incurred in conveying insane persons to and from the insane asylums, and in conveying persons to and from the State Prisons, which per diem and expenses shall be allowed by the Board of Examiners and collected from the State. The Court shall also allow the Sheriff his necessary expenses in keeping and preserving property seized on attachment or execution, to be paid out of the fees collected in the action. In any county of this State where the number of Judges of the Superior Court shall have been increased since the first day of January, eighteen hundred and eighty-seven, or shall hereafter be increased, there must be, and there hereby is, allowed to the Sheriff of such county, because of such increase in the number of Judges, one additional deputy, to be appointed by the

Sheriff, for each additional Judge elected or appointed; and also there must be, and there hereby is, allowed to the County Clerk of such county, because of such increase in the number of Judges, one additional deputy, to be appointed by the County Clerk, to act as court-room clerk, and one additional deputy, to be appointed by the County Clerk, to act as register clerk, for each additional Judge elected or appointed; *provided*, there must be but one such additional register clerk where two additional Judges are elected or appointed, but two such additional register clerks where three or more additional Judges are elected or appointed; *provided further*, that none of the provisions heretofore made in this Act, relative to additional deputies for Sheriffs and County Clerks, because of the election or appointment of additional Judges, shall apply to counties of the eighth and one half class. The compensation to be paid all Deputy Sheriffs and Deputy Clerks hereunder shall be one hundred and twenty-five dollars per month, and the same shall be paid monthly out of the County Treasury of such county, in the same manner and at the same time other county officers are paid; *provided*, that in counties of the second class the compensation of such Deputy Sheriffs hereunder shall be three dollars per day; *provided*, that the per diem allowed to Sheriffs by this section for taking persons and prisoners to and from the insane asylums and State Prisons, and other State institutions, shall be a State charge, and payable out of the State Treasury, upon the warrants of the Controller, after having been audited by the State Board of Examiners or Auditors.

SEC. 4. This Act shall take effect and be in force from and after its passage.

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### CHAPTER III.

*An Act to amend section one thousand and fifty-four (1054) of the Code of Civil Procedure of the State of California, relating to extending the time within which an act is to be done.*

[Approved January 31, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one thousand and fifty-four (1054) of the Code of Civil Procedure of the State of California is hereby amended so as to read as follows:

1054. When an act to be done, as provided in this Code, relates to the pleadings in the action, or the undertakings to be filed, or the justification of sureties, or the preparation of statements, or of bills of exceptions, or of amendments thereto, or to the service of notices other than of appeal, the time allowed by this Code may be extended, upon good cause shown, by the Judge of the Superior Court in and for the county in which the action is pending, or by the Judge who presided at the trial of said action; but such extension shall not exceed thirty days,

without the consent of the adverse party ; except that when it appears to the Judge to whom said application is made, that the attorney of record for the party applying for said extension is actually engaged in attendance upon a session of the Legislature of this State, as a member thereof ; in which case it shall be the duty of said Judge to extend said time until said session of the Legislature adjourns, and thirty days thereafter.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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## CHAPTER VIII.

*An Act to amend an Act entitled "An Act to form agricultural districts, to provide for the formation of agricultural associations therein, and for the management and control of the same by the State, and to repeal so much of an Act entitled 'An Act to form agricultural districts, to provide for the formation of agricultural associations therein, and for the management and control of the same by the State,'" approved March 20, 1891, and amended by an Act approved March 23, 1893, amending section eight, and adding a new section thereto.*

[Approved February 18, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section eight of said Act is hereby amended so as to read as follows:

Section 8. Each association so formed and organized is hereby declared, and shall be recognized, a State institution, and the Board so appointed and qualified shall have the exclusive control and management of such institution, for and in the name of the State, and shall have the possession and care of all the property of the association, and shall fix the terms of office and the bonds of the Secretary and Treasurer, and determine their salaries and duties. They shall have the power to make all necessary by-laws, rules, and regulations for the government of the association and the management of its prudential and financial affairs. They shall provide for an annual fair or exhibition by the association of all the industries and industrial products in the district, at such time and place as they deem advisable; provided, that no district fair shall be held in any of the districts during the same period that the State Fair is held, and that the State shall in no event be liable for any premium offered, or award made, or for any debt contracted by any District Board of Agriculture or Agricultural Association; and provided further, that nothing in this section shall be so construed as in any way to affect or modify any of the provisions of section ten and one half of this Act.

SEC. 2. A new section is hereby added to said Act, reading as follows:

Section 10½. Every such association organized and existing under the laws of the State, and which has heretofore issued

certificates alleged to be certificates of the capital stock of such association, and which certificates last mentioned have been accepted by the members of such association in lieu of certificates of membership therein, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner, and with like effect as corporations formed under the provisions of chapter one, article one, of the Civil Code, relating to the formation of corporations.

In order to effect such change, a meeting of the holders of such alleged certificates of capital stock may be called, at which the holders of such alleged stock shall be entitled to one vote for each share of such stock appearing in their names, respectively, upon the books of such association. Upon the receipt of a written application, signed by the holders of one fourth of the shares of such alleged capital stock of such association, requesting him so to do, the Secretary of such association shall give notice of the time and place of holding such meeting, by publication in some newspaper printed and published in such county, or city and county, in which the principal place of business of such association is located, at least once a week for three successive weeks next prior to the holding thereof. Such notice shall state that the object of the meeting is (1) to determine whether such corporation elects to have a capital stock as provided by this Act, (2) the amount of such capital stock, and (3) the number of shares into which the same shall be divided. At such meeting, should the holders of a majority of the shares of such alleged capital stock vote in favor of having a capital stock, and fix the amount thereof, and the number of shares into which it shall be divided, then such corporation shall issue certificates of capital stock to the amount fixed at such meeting, divided into the number of shares provided by said meeting, to the holders of such alleged capital stock, in the same proportion as such alleged stock appears in the names of such holders, respectively, upon the books of such association.

A copy of the notice calling such meeting, the affidavit of publication thereof, the proceedings of such meeting, the amount of capital stock voted, number of shares into which the capital stock was divided, and to whom assigned, duly certified by the Chairman of such meeting and the Secretary of such association, under the seal thereof, must be filed with the Secretary of State and the Clerk of the county where such association has its principal place of business. Thereafter such association shall be possessed of all rights and powers, and shall be subject to all the obligations and restrictions, as if it had been originally created a corporation with a capital stock, including the right to elect a Board of Directors authorized to exercise such control of all the property of such association, as provided in chapters one, two, three, and four of the Civil Code, relating to corporations; *provided*, such association shall have no authority to sell any portion of the real estate owned and held by it, by whatever title derived, which may be necessary for the permanent use of such association, for the purposes aforesaid; and *provided further*, that in the event that such

association, after the issuance of a capital stock as aforesaid, shall be offered aid at any time from the State by appropriation, for the purpose of holding an annual district fair, and such association, by a vote of the Board of Directors, elected as herein-after provided, adopts a resolution accepting such appropriation, then and in that event said annual fair shall be held under the control and management of the District Board of Agriculture of such district; but said District Board of Agriculture shall have no other authority, control, or management of or over the property of such association, and the authority which it may exercise over said property shall continue only during the time occupied in holding the said district fair, which time shall not extend over more than one week annually.

When any corporation has elected to issue capital stock under this Act, the President thereof shall, within ten days after filing, with the Secretary of State, of the certificate herein-before provided, call a meeting of the stockholders of such corporation, for the purpose of electing a Board of Directors of such corporation, which Board of Directors shall hold their office until their successors are elected and qualified; and thereafter a Board of Directors of such corporation shall be elected annually, on the day of the month upon which the election of said first Board of Directors elected as aforesaid is held, unless a different day for holding such election is fixed by the Board of Directors of such corporation, by its by-laws, properly adopted.

SEC. 3. So much of an Act entitled "An Act to form agricultural districts, to provide for the organization of agricultural associations therein, and for the management and control of the same by the State," approved April fifteenth, eighteen hundred and eighty, and of the several Acts amendatory thereof, and as are in conflict herewith, are hereby repealed.

SEC. 4. This Act shall take effect from and after its passage.

## CHAPTER X.

*An Act to amend section five hundred and two of the Civil Code, relating to time allowed for commencing work and completing the same, under rights of way granted by municipal corporations; and providing for a forfeiture in case of failure to commence work or to complete it within the time fixed.*

[Approved February 25, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section five hundred and two of the Civil Code is hereby amended so as to read as follows:

502. Work to construct the railroad must be commenced in good faith within not more than one year from the date of the taking effect of the ordinance granting the right of way, and said work must be completed within not more than three years after the taking effect of such ordinance; *provided*, that the governing body of such municipal corporation at the time of granting said right of way shall have the power to fix the time for either the commencing or completion, or both, of said work; not, however, to a time less than six months for commencing, and not less than eighteen months for completing the same. A failure to comply with either of the foregoing provisions of this section, or with either of the provisions of the ordinance granting said right of way, works a forfeiture of the right of way, and also of the franchise, unless the uncompleted portion is abandoned by the person or corporation to whom said right of way is granted, with the consent of the authorities granting the right of way, such abandonment and consent to be in writing. The authority granting the right of way shall have the power to grant an extension of time for the completion of said work, if it appear that the work has been commenced within the time fixed, and prosecuted in good faith; but no extension of time shall be granted for the commencement of said work, and shall not be granted for more than one year for the completion of the same. All extensions of time shall be in writing, and made a matter of record in the municipality. *Provided further*, that this Act shall not in any way affect any franchise or right of way granted before its passage.

SEC. 2. This Act will take effect immediately.

## CHAPTER XI.

*An Act to amend section thirty-seven hundred and sixty-five, section thirty-seven hundred and seventy-three, section thirty-seven hundred and seventy-eight, section thirty-seven hundred and eighty, section thirty-seven hundred and eighty-one, section thirty-seven hundred and eighty-five, section thirty-seven hundred and eighty-eight, section thirty-eight hundred and thirteen, section thirty-eight hundred and sixteen, and section thirty-eight hundred and seventeen; and to repeal section thirty-seven hundred and seventy-four, section thirty-seven hundred and seventy-five, section thirty-seven hundred and seventy-six, section thirty-seven hundred and seventy-seven, section thirty-seven hundred and seventy-nine, section thirty-seven hundred and eighty-two, section thirty-seven hundred and eighty-three, section thirty-seven hundred and eighty-four, and section thirty-eight hundred and eighteen of an Act of the Legislature of the State of California entitled "An Act to establish a Political Code," approved March 12, 1872, relating to the sale of real property for delinquent taxes, and the redemption and resale of such property; and to add a new section thereto, to be known and designated as section thirty-eight hundred and one, also relating to the sale of real property for delinquent taxes.*

[Approved February 25, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section thirty-seven hundred and sixty-five of the Political Code of the State of California is hereby amended so as to read as follows:

3765. The Tax Collector must append and publish with the delinquent list a notice that unless the taxes delinquent, together with the costs and percentage, are paid, the real property upon which such taxes are a lien will be sold.

SEC. 2. Section thirty-seven hundred and seventy-three of the Political Code of the State of California is hereby amended so as to read as follows:

3773. On the day of sale the owner or person in possession of any real estate offered for sale for taxes due thereon, may pay the taxes and costs due; but in case such taxes and costs are not paid by the owner or person in possession, or by some one on behalf of such owner or person in possession, the whole amount of the property assessed shall be struck off to the people of the State as the purchaser; *provided*, that when the said taxes amount to the sum of three hundred dollars, or more, upon any piece of property, the State may bring suit against the owner of said property for the collection of said taxes and costs, as provided in section three thousand eight hundred and ninety-nine of this Code. In each case the Tax Collector shall make an entry, "Sold to State," on the delinquent assessment

book opposite the tax, and he shall be credited with the amount thereof in his settlement made pursuant to sections thirty-seven hundred and ninety-seven, thirty-seven hundred and ninety-eight, and thirty-seven hundred and ninety-nine of this Code.

SEC. 3. Section thirty-seven hundred and seventy-four of the Political Code of the State of California is hereby repealed.

SEC. 4. Section thirty-seven hundred and seventy-five of the Political Code of the State of California is hereby repealed.

SEC. 5. Section thirty-seven hundred and seventy-six of the Political Code of the State of California is hereby repealed.

SEC. 6. Section thirty-seven hundred and seventy-seven of the Political Code of the State of California is hereby repealed.

SEC. 7. Section thirty-seven hundred and seventy-eight of the Political Code of the State of California is hereby amended so as to read as follows:

3778. The Collector must, in a book provided for that purpose, enter a description of the land sold, corresponding to the description in the original assessment roll, the date of sale, that it was sold to the State, the amount for which it was sold, and must regularly number the descriptions on the margin of the book. Such book must be open to public inspection, without fee, during office hours, when not in actual use.

SEC. 8. Section thirty-seven hundred and seventy-nine of the Political Code of the State of California is hereby repealed.

SEC. 9. Section thirty-seven hundred and eighty of the Political Code of the State of California is hereby amended so as to read as follows:

3780. A redemption of the property sold may be made by the owner, or any party in interest, within five years from the date of the purchase by the State, or at any time prior to the entry or sale of said land, in the manner applicable to other State lands of like character.

SEC. 10. Section thirty-seven hundred and eighty-one of the Political Code of the State of California is hereby amended so as to read as follows:

3781. Redemption must be made to the County Treasurer in lawful money of the United States, and he must account to the State for all moneys paid for such redemption, which said moneys shall be distributed in the manner provided in section thirty-eight hundred and sixteen of this Code.

SEC. 11. Section thirty-seven hundred and eighty-two of the Political Code of the State of California is hereby repealed.

SEC. 12. Section thirty-seven hundred and eighty-three of the Political Code of the State of California is hereby repealed.

SEC. 13. Section thirty-seven hundred and eighty-four of the Political Code of the State of California is hereby repealed.

SEC. 14. Section thirty-seven hundred and eighty-five of the Political Code of the State of California is hereby amended so as to read as follows:

3785. If the property is not redeemed within the time allowed by law for its redemption, the Collector, or his suc-

cessor in office, must make the State a deed of the property, reciting in the deed the date of sale, the name of the person assessed, when known, a description of the land sold, the amount paid therefor, that it was sold for taxes, giving the amount and the year of assessment, and the time when the preferred right to purchase the land will expire, and that no person has redeemed the property during the time allowed for its redemption. No charge shall be made by the Collector for the making of any such deed, and acknowledgments of all such deeds shall be taken by the County Clerk free of charge. All said deeds shall be recorded in the office of the County Recorder of the county wherein the property sold is situated, and said Recorder shall make no charge therefor. The State Controller shall provide uniform blank deeds, upon which all conveyances to the State under the provisions of section thirty-seven hundred and eighty-five of the Political Code shall be made.

SEC. 15. Section thirty-seven hundred and eighty-eight of the Political Code of the State of California is hereby amended so as to read as follows:

3788. Such deed conveys to the State the absolute title to the property described therein, as of the date of the expiration of the period of five years from the date of the sale of said property to the State, free of all incumbrances, except when the land is owned by the United States or this State, in which case it is *prima facie* evidence of the right of possession, accrued as of the date of the deed to the State. All said deeds when recorded by the Recorders of the several counties, as prescribed in section thirty-seven hundred and eighty-five of this Code, shall be duly certified by such County Recorder, and shall be duly filed in the office of the Surveyor-General, and thereupon the land shall again become subject to entry and sale in the same manner, and subject to the same conditions, as apply to other State lands of like character, except that the former possessors of lands thus deeded to the State, their heirs or assigns, shall be preferred purchasers thereof for the period of six months after the deeds are filed with the Surveyor-General, as prescribed in this section; but the Surveyor-General shall not permit an entry, or make a sale of any lands thus deeded to the State, except upon the previous payment into the State Treasury, in addition to the price of said lands, as compared with the price fixed for other State lands of a like character, by the person or persons proposing to make the entry or purchase, of a sum equal to the delinquent taxes, costs, and penalties, by virtue whereof the State became a purchaser of the lands thus sought to be entered or purchased, and also all delinquent taxes, costs, and penalties which may have accrued upon such lands subsequent to the date of the sale to the State, in pursuance of which the State received a deed therefor. The money thus paid into the State Treasury shall be distributed in the manner prescribed in section thirty-eight hundred and sixteen of this Code. In all cases where land has heretofore been sold to the State for delinquent taxes, the deed therefor shall be made within one year after this Act takes effect; pro-

vided, five years shall have elapsed after the date of such sale.

SEC. 16. A new section is hereby added to the Political Code of the State of California, to be known and designated as section thirty-eight hundred and one.

3801. It shall be the duty of the Tax Collector, within thirty days after the sale of any land for delinquent taxes, to furnish to the Assessor the complete printed list of all such lands so sold, and thereupon the Assessor shall enter upon the assessment book, immediately after the description of the property, the fact that said property has been sold for taxes, and the date of such sale. Upon all bills or statements of or for taxes accruing on said property subsequent to the date of such sale, and prior to the redemption of said property, or the execution to the State of a deed therefor, there shall be distinctly and legibly written, printed, or stamped the words "sold for taxes," and also the date of such sale.

SEC. 17. Section thirty-eight hundred and thirteen of the Political Code of the State of California is hereby amended to read as follows:

3813. In case property assessed for taxes is purchased by the State pursuant to provisions of section thirty-seven hundred and seventy-three of this Code, it shall be assessed each subsequent year for taxes until a deed is made to the State therefor, in the same manner as if it had not been so purchased.

SEC. 18. Section thirty-eight hundred and sixteen of the Political Code of the State of California is hereby amended to read as follows:

3816. Whenever property sold to the State, pursuant to the provisions of this chapter, shall be redeemed as herein provided, the moneys received on account of such redemption shall be distributed as follows: The original and subsequent taxes, and all percentages and penalties paid in redemption, except as hereinafter provided, shall be apportioned between the State and county, in the same proportion that the State tax bears to the county tax; the five per cent additional, and the money received for delinquent poll tax, shall be paid to the county; the percentage allowed for the collection of the delinquent poll tax shall be paid to the Collector, and the costs to the parties entitled thereto. The County Treasurer shall keep an accurate account of all money paid in redemption of property sold to the State, and shall, on the first Monday of June in each year, make a detailed report, verified by his affidavit, of each account, year for year, to the Controller of State, in such form as the Controller may desire. Whenever the State shall receive from the Tax Collector any grant of property so sold for taxes, the same shall be recorded, at the request of the County Treasurer, free of charge, by the County Recorder, and shall be immediately reported by the County Treasurer to the State Board of Equalization.

SEC. 19. Section thirty-eight hundred and seventeen of the Political Code of the State of California is hereby amended so as to read as follows:

3817. In all cases where real estate has been or may hereafter be sold for delinquent taxes, and the State has become the purchaser, and has not disposed of the same, the person whose estate has been or may hereafter be sold, or his heirs, executors, administrators, or other successors in interest, shall at any time after the time of purchase thereof by the State, and before the State shall have disposed of the same, have the right to redeem such real estate, by paying to the County Treasurer of the county wherein the real estate is situated, the amount of taxes due thereon at the time of said sale, with interest thereon at the rate of seven per cent per annum; and also all taxes that were a lien upon said real estate at the time said taxes became delinquent; and also for each year since the sale for which taxes on said land have not been paid, an amount equal to the percentage of taxes for that year upon the value of said real estate as assessed for that year; or if not so assessed, then upon the value of the property as assessed in the year nearest to the time of such redemption, with interest from the first day of January of each of said years respectively at the same rate; and also all costs and expenses which may have accrued by reason of such delinquency and sale, and the costs and expenses of such redemption, as hereinafter specified, and penalties as follows, to wit: Ten per cent, if redeemed within six months from the date of sale; twenty per cent, if redeemed within one year therefrom; forty per cent, if redeemed within two years therefrom; sixty per cent, if redeemed within three years therefrom; eighty per cent, if redeemed within four years therefrom; and one hundred per cent, if redeemed within five or any greater number of years therefrom. The penalty shall be computed upon the amount of each year's taxes, in like manner, reckoning from the time when the lands would have been sold for the taxes of that year, if there had been no previous sale thereof. The County Auditor shall, on the application of the person desiring to redeem, make an estimate of the amount to be paid, and shall give him triplicate certificates of the amount, specifying the several amounts thereof, which certificates shall be delivered to the County Treasurer, together with the money; and the County Treasurer shall give triplicate receipts, written or indorsed upon said certificates, to the redemptioner, who shall deliver one of said receipts to the State Controller and one to the County Auditor, taking their receipts therefor. The County Treasurer shall settle for the moneys received, as for other State and county moneys. Upon the payment of the money specified in said certificate, and the giving of the receipts aforesaid by the Treasurer, Controller, and Auditor, any deed or certificate of sale that may have been made to the State shall become null and void, and all right, title, and interest acquired by the State under and by virtue of the tax sale shall cease and determine. The receipts of the County Treasurer, Controller, and County Auditor may be recorded in the Recorder's office of the county in which said real estate is situated, in the book of deeds, and the record thereof shall have the same effect as that of a deed of reconveyance of the interest conveyed by such deed or sale.

This Act shall not apply to school lands when the full amount of one dollar and twenty-five cents per acre has not been paid to the State therefor.

SEC. 20. Section thirty-eight hundred and ninety-nine of the Political Code of the State of California is hereby amended to read as follows:

3899. The Controller may, at any time after a delinquent list has been delivered to a Collector, direct such Collector not to proceed in the collection of any tax on said list amounting to three hundred dollars, further than to offer for sale but once to the State any property upon which such tax is a lien. Upon such direction, the Collector, after offering the property for sale once, if the taxes which are a lien upon such property are not then and there paid by the owner or person in interest, the Collector must make out and deliver to the Controller a certified copy of the entries upon the delinquent list relative to such tax, and the Tax Collector, or the Controller, in case the Tax Collector refuses or neglects for fifteen days after being directed to bring suit for collection by the Controller, may proceed by civil action in the proper Court, and in the name of the people of the State of California, to collect such tax and cost.

SEC. 21. Section thirty-eight hundred and eighteen of the Political Code of the State of California is hereby repealed.

SEC. 22. All Acts and parts of Acts in conflict with this Act are hereby repealed.

SEC. 23. This Act shall take effect and be in force from and after its passage.

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## CHAPTER XII.

*An Act repealing chapter ninety-six of the statutes of eighteen hundred and eighty-three, entitled "An Act to appropriate money for the support of aged persons in indigent circumstances," approved March 15, 1883.*

[Approved February 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Chapter ninety-six of the statutes of eighteen hundred and eighty-three, entitled "An Act to appropriate money for the support of aged persons in indigent circumstances," approved March fifteenth, eighteen hundred and eighty-three, is hereby repealed.

SEC. 2. This Act shall take effect and be in force from and after its passage.

## CHAPTER XV.

*An Act to amend section seven hundred and fifty-two of an Act entitled "An Act to provide for the organization, incorporation, and government of municipal corporations," approved March 18, 1883.*

[Approved March 5, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred and fifty-two of an Act entitled "An Act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, is hereby amended so as to read as follows:

Section 752. The members of the Board of Trustees, and of the Board of Education, and the Assessor, Marshal, Treasurer, City Attorney, and Recorder, shall be elected by the qualified electors of said city, at a general municipal election to be held therein on the second Monday in April, in each odd-numbered year. The Assessor, Marshal, Treasurer, City Attorney, and Recorder shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. Members of the Board of Trustees and of the Board of Education shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; *provided*, that the first Board of Trustees and Board of Education elected under the provisions of this Act shall at their first meeting so classify themselves, by lot, as that three of their members shall go out of office at the expiration of two years, and two at the expiration of four years. The City Clerk shall be appointed by the Board of Trustees, and shall hold office during the pleasure of the Board of Trustees. The Board of Trustees may, in their discretion, appoint a Poundmaster, to hold office during the pleasure of the Board; also, a Superintendent of Streets and a City Engineer, both of whom shall hold office during the pleasure of the Board, and both of which offices may be held by the same person.

SEC. 2. This Act shall take effect immediately.

## CHAPTER XVIII.

*An Act to amend section three thousand and ten of the Civil Code, relating to the right of the pledgee to purchase the pledged property when sold at public auction.*

[Approved March 8, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section three thousand and ten of the Civil Code is hereby amended so as to read as follows:

3010. Whenever property pledged is sold at public auction, in the manner provided by section three thousand and five of this Code, the pledgee or pledge-holder may purchase said property at such sale.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XXI.

*An Act to amend section seventeen hundred and ninety-nine of an Act entitled "An Act to establish a Code of Civil Procedure," approved March 11, 1872, relating to the discharge of guardians.*

[Approved March 8, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seventeen hundred ninety-nine of an Act entitled "An Act to establish a Code of Civil Procedure," approved March eleventh, eighteen hundred and seventy-two, is hereby amended to read as follows:

1799. Such order is a discharge of the executor, administrator, local guardian, or other person in whose possession the property may be at the time the order is made, on filing with the Clerk of the Court a receipt therefor of a foreign guardian of such absent ward, and transmitting a duplicate receipt, or a certified copy of such receipt, to the Court from which such non-resident guardian received his appointment.

## CHAPTER XXII.

*An Act to amend chapter two, part four, title fourteen, of the Civil Code, by adding thereto a new section, to be numbered as section twenty-nine hundred thirty-nine and one half, relating to satisfactions or releases of mortgages in this State by foreign executors or administrators.*

[Approved March 8, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Chapter two, part four, title fourteen, of the Civil Code, is hereby amended by adding a new section thereto, to be numbered and known as twenty-nine hundred thirty-nine and one half, and to read as follows:

2939½. Foreign executors and administrators may satisfy mortgages upon the records of any county in this State, upon producing and recording in the office of the County Recorder of the county in which such mortgage is recorded, a duly certified and authenticated copy of their letters testamentary or of administration, and which certificate shall also recite that said letters have not been revoked.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XXIII.

*An Act to amend section seven hundred and fifty-two of an Act entitled "An Act to establish a Political Code," approved March 12, 1872, relative to the fees to be collected by the Clerk of the Supreme Court of the State of California.*

[Approved March 8, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred fifty-two of an Act entitled "An Act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, is hereby amended to read as follows:

752. He must collect in advance the following fees: For filing the transcript on appeal, in each civil case appealed to the Supreme Court, ten dollars, in full of all services rendered in each case up to the rendering of the judgment or the issuing of the remittitur, when no petition for a rehearing has been filed; for filing a petition for a rehearing, and for all services to the issuing of remittitur to the Court below, two dollars and fifty cents; for filing motion to dismiss appeal on Clerk's certificate, two dollars and fifty cents; for filing petitions for writs of mandate, review, prohibition, and other original proceedings, seven dollars and fifty cents, in full for all services

rendered in each case; for filing order extending time to file transcript, fifty cents; for certificate of admission as attorney and counselor, ten dollars; for filing each paper in writs of error to the Supreme Court of the United States, twenty-five cents; for making record in writs of error to the Supreme Court of the United States, and for copies of any record or document in his office, per folio, ten cents; but this fee shall not be taxed against parties to suits for any paper or copy of paper up to and including remittitur; for comparing any document requiring any document requiring a certificate, per folio, five cents; for each certificate under seal, one dollar.

SEC. 2. This Act shall take effect from and after its passage.

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#### CHAPTER XXIV.

*An Act to amend section two hundred and ninety-seven of an Act entitled "An Act to establish a Civil Code," approved March 21, 1872, relating to articles of incorporation.*

[Approved March 8, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two hundred and ninety-seven of the Civil Code is hereby amended to read as follows:

297. A copy of any articles of incorporation filed in pursuance of this chapter, and certified by the Secretary of State, or by the County Clerk of the county where the original articles shall have been filed, must be received in all the Courts of this State, and other places, as *prima facie* evidence of the facts therein stated.

SEC. 2. This Act shall take effect immediately on its passage.

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#### CHAPTER XXV.

*An Act to amend section ninety-four of an Act entitled "An Act to establish a Penal Code," approved February 14, 1872, relative to the fees of court reporters and the misconduct of judicial officers.*

[Approved March 8, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section ninety-four of an Act entitled "An Act to establish a Penal Code," approved February fourteenth, eighteen hundred and seventy-two, is amended to read as follows:

94. Every judicial officer who asks or receives any emolument, gratuity, or reward, or any promise thereof, except such as may be authorized by law, for doing any official act, is guilty

of a misdemeanor. Every judicial officer who shall ask or receive the whole or any part of the fees allowed by law to any stenographer or reporter appointed by him, or any other person, to record the proceedings of any Court or investigation held by him, shall be guilty of a misdemeanor, and upon conviction thereof shall forfeit his office. Any stenographer or reporter, appointed by any judicial officer in this State, who shall pay, or offer to pay, the whole or any part of the fees allowed him by law, for his appointment or retention in office, shall be guilty of a misdemeanor, and upon conviction thereof shall be forever disqualified from holding any similar office in the Courts of this State.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XXVI.

*An Act to amend section five hundred and eighty-one of an Act entitled "An Act to establish a Code of Civil Procedure," approved March 11, 1872, relating to the dismissal of civil actions.*

[Approved March 8, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section five hundred and eighty-one of the Code of Civil Procedure is hereby amended to read as follows:

581. An action may be dismissed or a judgment of nonsuit entered, in the following cases:

1. By the plaintiff himself, at any time before trial, upon payment of costs; *provided*, a counter-claim has not been made, or affirmative relief sought by the cross-complaint or answer of the defendant. If a provisional remedy has been allowed, the undertaking must thereupon be delivered by the Clerk to the defendant, who may have his action thereon.

2. By either party upon the written consent of the other.

3. By the Court, when the plaintiff fails to appear on the trial, and the defendant appears and asks for the dismissal.

4. By the Court, when upon the trial and before the final submission of the case, the plaintiff abandons it.

5. By the Court, upon motion of the defendant, when upon the trial the plaintiff fails to prove a sufficient case for the jury.

6. By the Court, when, after verdict or final submission, the party entitled to judgment neglects to demand and have the same entered for more than six months.

The dismissal mentioned in the first two subdivisions of this section is made by entry in the Clerk's register; judgment may thereupon be entered accordingly.

7. And no action heretofore or hereafter commenced shall be further prosecuted, and no further proceedings shall be had therein, and all actions heretofore or hereafter commenced shall be dismissed by the Court in which the same shall have been

commenced on its own motion, or on motion of any party interested therein, whether named in the complaint as a party or not, unless summons shall have been issued within one year; and all such actions shall be in like manner dismissed, unless the summons shall be served and return thereon made within three years after the commencement of said action. But all such actions may be prosecuted, if appearance has been made by the defendant or defendants within said three years, in the same manner as if summons had been issued and served.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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## CHAPTER XXVII.

*An Act to amend an Act entitled "An Act to authorize the husband or wife, or next of kin, of a deceased person, to collect and receive of any savings bank any deposit in such bank, when the same does not exceed the sum of three hundred dollars," approved February 18, 1874.*

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one of said Act is hereby amended so as to read as follows:

Section 1. The surviving husband or wife of any deceased person, or if no husband or wife be living, then the next of kin of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; *provided*, said deposit shall not exceed the sum of five hundred dollars.

SEC. 2. Section two of said Act is hereby amended so as to read as follows:

Section 2. Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife, as the case may be, or stating that said decedent left no husband or wife, and that affiant is next of kin of said decedent, and entitled to distribution, and that the whole amount that decedent left on deposit in any and all banks of deposit in this State does not exceed the sum of five hundred dollars, may pay to said affiant any deposit of said decedent, if the same does not exceed the sum of five hundred dollars, and the receipt of such affiant shall be a sufficient acquittance therefor.

SEC. 3. Any person who shall make a false affidavit in regard to the matters specified in this Act, shall be deemed to be guilty of perjury.

SEC. 4. This Act shall take effect from and after its passage.

[Became a law, under constitutional provision, without Governor's approval, March 8, 1895.]

## CHAPTER XXVIII.

*An Act to amend sections two, six, eleven, fifteen, seventeen, and eighteen of an Act entitled "An Act to establish a tax on collateral inheritances, bequests, and devises, to provide for its collection, and to direct the disposition of the proceeds," approved March 23, 1893.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two of an Act entitled "An Act to establish a tax on collateral inheritances, bequests, and devises, to provide for its collection, and to direct the disposition of the proceeds," approved March twenty-third, eighteen hundred and ninety-three, is hereby amended to read as follows:

Section 2. When any grant, gift, legacy, or succession upon which a tax is imposed by section one of this Act shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in section eleven of this Act, and the tax prescribed by this Act shall be immediately due and payable to the Treasurer of the proper county, and, together with the interest thereon, shall be and remain a lien on said property until the same is paid; *provided*, that the person or persons, or body politic or corporate, beneficially interested in the property chargeable with said tax, may elect not to pay the same until they shall come into the actual possession or enjoyment of such property, and in that case such person or persons, or body politic or corporate, shall execute a bond to the people of the State of California, in a penalty of twice the amount of the tax arising upon personal estate, with such sureties as the said Superior Court may approve, conditioned for the payment of said tax, and interest thereon, at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, which bond shall be filed in the office of the County Clerk of the proper county; *provided further*, that such person shall make a full and verified return of such property to said Court, and file the same in the office of the County Clerk within one year from the death of the decedent, and within that period enter into such security, and renew the same every five years.

SEC. 2. Section six of said Act is hereby amended to read as follows:

Section 6. Any administrator, executor, or trustee having in charge or trust any legacy or property for distribution, subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money he shall collect the tax thereon,

upon the market value thereof, from the legatee or person entitled to such property, and he shall not deliver, or be compelled to deliver, any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate, the executor, administrator, or trustee shall collect said tax from the distributee thereof, and the same shall remain a charge on such real estate until paid; if, however, such legacy be given in money to any person for a limited period, the executor, administrator, or trustee shall retain the tax upon the whole amount; but if it be not in money he shall make application to the Superior Court to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

SEC. 3. Section eleven of said Act is hereby amended to read as follows:

Section 11. When the value of any inheritance, devise, bequest, or other interest subject to the payment of said tax is uncertain, the Superior Court in which the probate proceedings are pending, on the application of any interested party, or upon his own motion, shall appoint some competent person as appraiser, as often as and whenever occasion may require, whose duty it shall be forthwith to give such notice, by mail, to all persons known to have or claim an interest in such property, and to such persons as the Court may by order direct, of the time and place at which he will appraise such property, and at such time and place to appraise the same and make a report thereof, in writing, to said Court, together with such other facts in relation thereto as said Court may by order require to be filed with the Clerk of said Court; and from this report the said Court shall, by order, forthwith assess and fix the market value of all inheritances, devises, bequests, or other interests, and the tax to which the same is liable, and shall immediately cause notice thereof to be given, by mail, to all parties known to be interested therein; and the value of every future or contingent or limited estate, income, or interest shall, for the purposes of this Act, be determined by the rule, method, and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities, and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be five per centum per annum; and the Insurance Commissioner shall, on the application of said Court, determine the value of such future or contingent or limited estate, income, or interest, upon the facts contained in such report, and certify the same to the Court, and his certificate shall be conclusive evidence that the method of computation adopted therein is correct. The said appraiser shall be paid by the County Treasurer out of any funds that he may have in his hands on account of said tax, on the certificate of the Court, at the rate of five dollars

per day for every day actually and necessarily employed in said appraisement, together with his actual and necessary traveling expenses.

SEC. 4. Section fifteen of said Act is hereby amended to read as follows:

Section 15. Whenever the Treasurer of any county shall have reason to believe that any tax is due and unpaid under this Act, after the refusal or neglect of the persons interested in the property liable to said tax to pay the same, he shall notify the District Attorney of the proper county, in writing, of such failure to pay such tax, and the District Attorney so notified, if he have probable cause to believe a tax is due and unpaid, shall prosecute the proceeding in the Superior Court, as provided in section fourteen of this Act, for the enforcement and collection of such tax.

SEC. 5. Section seventeen of said Act is hereby amended to read as follows:

Section 17. Whenever the Superior Court of any county shall certify that there was probable cause for issuing a citation, and taking the proceedings specified in section fifteen of this Act, the State Treasurer shall pay, or allow, to the Treasurer of any county, all expenses incurred for services of citation, and his other lawful disbursements that have not otherwise been paid.

SEC. 6. Section eighteen of said Act is hereby amended to read as follows:

Section 18. The County Clerk of each county shall keep a book in which he shall enter the values of inheritances, devises, bequests, and other interests subject to the payment of said tax, and the tax assessed thereon, and the amounts of any receipts for payments thereon filed with him, which books shall be kept by him as public records.

SEC. 7. This Act shall go into effect on and after its approval.

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## CHAPTER XXIX.

*An Act to amend section four hundred and eighty-seven of an Act entitled "An Act to establish a Penal Code," approved February 14, 1872, defining grand larceny.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section four hundred and eighty-seven of the Penal Code of the State of California is amended hereby so as to read as follows:

487. Grand larceny is larceny committed in either of the following cases:

1. When the property taken is of a value exceeding fifty dollars.

2. When the property is taken from the person of another.
  3. When the property taken is a horse, mare, gelding, cow, steer, bull, calf, mule, jack, or jenny.
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## CHAPTER XXX.

*An Act to amend section two thousand two hundred and eighteen of the Political Code of the State of California, relating to the commitment of insane persons.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two thousand two hundred and eighteen of the Political Code of the State of California is hereby amended so as to read as follows:

2218. The insane person, together with the order of the Judge and certificate of the physicians, must be delivered to the Sheriff of the county, and by him must be delivered to the officer in charge of the insane asylum; but no female insane person shall be taken to the asylum without the attendance of some other female, or some relative of such insane person.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XXXI.

*An Act to amend section six hundred and seventy-one of the Code of Civil Procedure, relating to the lien of judgments, their enforcement and revivor.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section six hundred and seventy-one of the Code of Civil Procedure is hereby amended so as to read as follows:

671. Immediately after filing the judgment roll, the Clerk must make the proper entries of the judgment, under appropriate heads, in the docket kept by him; and from the time the judgment is docketed it becomes a lien upon all the real property of the judgment debtor not exempt from execution in the county, owned by him at the time, or which he may afterwards acquire, until the lien ceases. The lien continues for five years, unless the enforcement of the judgment be stayed on appeal by the execution of a sufficient undertaking as provided in this Code, in which case the lien of the judgment and any lien by virtue of an attachment that has been issued and levied in the action ceases.

SEC. 2. This Act shall take effect immediately.

## CHAPTER XXXII.

*An Act to amend section one of "An Act authorizing the appointment of an interpreter of the Italian language and dialects in criminal proceedings, in cities and cities and counties of one hundred thousand inhabitants and over," approved March 12, 1885.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one of an Act entitled "An Act to authorize the appointment of an interpreter of the Italian language and dialects in criminal proceedings, in cities and cities and counties of one hundred thousand inhabitants," approved March twelfth, eighteen hundred and eighty-five, is amended to read as follows:

Section 1. In all cities and cities and counties of over one hundred thousand inhabitants, where an interpreter of the Italian language is necessary, it shall be the duty of the Mayor and Police Judge of such city, or city and county, and of the Judge of the Superior Court of said city and county, or of the county in which said city is situated, or where there are more Judges than one, then it shall be the duty of the presiding Judge of said Superior Court and the presiding Judge of the Police Court and the Mayor, to appoint an interpreter of the Italian language, who must be able to interpret the Italian language and dialects into the English language, to be employed in criminal proceedings when necessary in said cities, or cities and counties.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XXXIII.

*An Act to amend section six hundred and eighty-five of the Code of Civil Procedure, relating to the enforcement or carrying into execution of judgments after the lapse of five years from the date of entry.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section six hundred and eighty-five of the Code of Civil Procedure is hereby amended so as to read as follows:

685. In all cases, the judgment may be enforced or carried into execution after the lapse of five years from the date of its entry, by leave of the Court, upon motion, or by judgment for that purpose, founded upon supplemental pleadings; but nothing in this section shall be construed to revive a judgment for the recovery of money which shall have been barred by limitation at the time of the passage of this Act.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XXXIV.

*An Act to add a new section to the Code of Civil Procedure, said section to be designated as section seventeen hundred and forty-four, relating to a penalty for Public Administrators who do not file reports of estates in their charge.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is hereby added to the Code of Civil Procedure, next after section seventeen hundred and forty-three, and included in chapter thirteen, part three, title eleven, and designated as section seventeen hundred and forty-four, to read as follows:

1744. Every Public Administrator, or person who holds letters of administration, who was appointed while acting as Public Administrator, who fails to comply with the provisions of section seventeen hundred and thirty-five, seventeen hundred and thirty-six and section seventeen hundred and thirty-nine of this Code, is guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine not less than one hundred dollars for each offense; and it shall be the duty of the District Attorney of the county to see that the provisions of this chapter are fully complied with.

Sec. 2. This Act shall take effect from and after its passage.

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## CHAPTER XXXV.

*An Act to amend section ten hundred and ninety-four of the Civil Code, relating to the execution and acknowledging of powers of attorney by a married woman, and to make valid all powers of attorney formerly executed by married women.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section ten hundred and ninety-four of the Civil Code is hereby amended to read as follows:

1094. A married woman may make, execute, and revoke powers of attorney for the sale, conveyance, or incumbrance of her real or personal estate, which shall have the same effect as if she were unmarried, and may be acknowledged in the same manner as a grant of real property.

## CHAPTER XXXVI.

*An Act to amend section two hundred and twenty-four of the Civil Code, regarding the adoption of children.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two hundred and twenty-four of the Civil Code is amended so as to read as follows:

224. A legitimate child cannot be adopted without the consent of its parents, if living; nor an illegitimate child without the consent of its mother, if living; except the consent is not necessary from a father or mother deprived of civil rights, or adjudged guilty of adultery or of cruelty, and for either cause divorced, or adjudged to be an habitual drunkard, or who has been judicially deprived of the custody of the child on account of cruelty or neglect; neither is the consent of any one necessary in case of any abandoned child; *provided, however,* that where any such child, being a half-orphan, and kept and maintained within any orphan asylum in this State for more than two years, may be adopted with the consent of the managers of such orphans' home without the consent of the parent, unless such parent has paid towards the expenses of maintenance of such half-orphan at least a reasonable sum during the said time, if able so to do; and where the parent is a non-resident of this State, such child may be adopted with the consent of the managers of such home, whenever it has been left by its parent in such home for more than one year, whether the parent has contributed anything to its support or not, and the consent of the parent of such half-orphan is not necessary to its adoption, whenever the managers of the home are authorized to give such consent, as herein provided.

Sec. 2. This Act shall take effect immediately.

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## CHAPTER XXXVII.

*An Act to amend section six hundred and fifty-three of the Civil Code of California, relating to the consolidation of colleges and institutions of higher education.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section six hundred and fifty-three of the Civil Code of California is hereby amended so as to read:

653. The several Boards of Trustees of the institutions thus consolidated shall be and are hereby authorized and directed to transfer all property, real and personal, held by them, to the

new corporation, as herein constituted, together with all powers, privileges, and authority conferred upon or enjoyed by them under their respective charters or acts of incorporation. The new corporation receiving such property shall assume all indebtedness and liabilities of such institutions as are thus consolidated, but shall not transfer such property from one location to another, except by an affirmative vote of not less than three fourths of the said Board of Trustees of the new corporation, nor divert specific grants, donations, or bequests from the purposes for which such grants, donations, or bequests were made. That after the Boards of Trustees have conveyed the property, real and personal, of the various institutions to the new corporation, as hereinabove provided, and the same has been accepted by the said new corporation, then the franchises held by the corporations thus consolidating shall cease, and the said corporations shall be thereby dissolved.

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## CHAPTER XXXVIII.

*An Act to prevent deception in the manufacture and sale of butter and of cheese, to secure its enforcement, and to appropriate money therefor.*

[Approved March 9, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. That for the purposes of this Act, every article, substance, or compound, other than that produced from pure milk, or cream from the same, made in the semblance of butter, and designed to be used as a substitute for butter made from pure milk, or cream from the same, is hereby declared to be imitation butter; and that for the purposes of this Act, every article, substance, or compound, other than that produced from pure milk, or cream from the same, made in the semblance of cheese, and designed to be used as substitute for cheese made from pure milk, or cream from the same, is hereby declared to be imitation cheese; *provided*, that the use of salt, rennet, and harmless coloring matter for coloring the product of pure milk or cream, shall not be construed to render such product an imitation; *and provided*, that nothing in this section shall prevent the use of pure skimmed milk in the manufacture of cheese.

SEC. 2. No person, by himself or his agents or servants, shall render or manufacture, sell, offer for sale, expose for sale, or have in his possession with intent to sell, or use, or serve to patrons, guests, boarders, or inmates, in any hotel, eating-house, restaurant, public conveyance, or boarding-house, or public or private hospital, asylum, school, or eleemosynary or penal institution, any article, product, or compound made wholly or partly out of any fat, oil, or oleaginous substance or compound thereof, not produced directly and at the time of manufacture from unadulterated milk, or cream from the same, which article,

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product, or compound shall be colored in imitation of butter or cheese produced from unadulterated milk, or cream from the same; *provided*, that nothing in this section shall be construed to prohibit the manufacture or sale, under the regulations hereinafter provided, of substances designed to be used as a substitute for butter or cheese, and not manufactured or colored as in this section prohibited.

SEC. 3. Each person who, by himself or another, lawfully manufactures any substance designed to be used as a substitute for butter or cheese shall mark by branding, stamping, or stenciling upon the top and sides of each tub, firkin, box, or other package in which such article shall be kept, and in which it shall be removed from the place where it is produced, in a clear and durable manner, in the English language, the words "substitute for butter," or "substitute for cheese," as the case may be, in printed letters in plain Roman type, each of which shall not be less than one inch in height by one half inch in width, and in addition to the above shall prepare a statement, printed in plain Roman type of a size not smaller than pica, stating in the English language its name, and the name and address of the manufacturer, the name of the place where manufactured or put up, and also the names and actual percentages of the various ingredients used in the manufacture of such imitation butter or imitation cheese; and shall place a copy of said statement within and upon the contents of each tub, firkin, box, or other package, and next to that portion of each tub, firkin, box, or other package as is commonly and most conveniently opened; and shall label the top and sides of each tub, firkin, box, or other package by affixing thereto a copy of said statement, in such manner, however, as not to cover the whole or any part of said mark of "substitute for butter" or "substitute for cheese."

SEC. 4. No person, by himself or another, shall knowingly ship, consign, or forward by any common carrier, whether public or private, any substance designed to be used as a substitute for butter or cheese, unless the same be marked and contain a copy of the statement, and be labeled as provided by section three of this Act; and no carrier shall knowingly receive the same for the purpose of forwarding or transporting, unless it shall be manufactured, marked, and labeled as hereinbefore provided, consigned, and by the carrier received for by its true name; *provided*, that this Act shall not apply to any goods in transit between foreign States and across the State of California.

SEC. 5. No person, or his agent, shall knowingly have in his possession or under his control any substance designed to be used as a substitute for butter and cheese, unless the tub, firkin, box, or other package containing the same shall be clearly and durably marked and contain a copy of the statement and be labeled as provided by section three of this Act; and if the tub, firkin, box, or other package be opened, then a copy of the statement described in section three of this Act shall be kept, with its face up, upon the exposed contents of said tub, firkin, box, or other package; *provided*, that this section shall not be deemed to apply to persons who have the

same in their possession for the actual consumption of themselves or family.

SEC. 6. No person, by himself or another, shall sell, or offer for sale, or take orders for the future delivery of any substance designed to be used as a substitute for butter or cheese under the name of or under the pretense that the same is butter or cheese; and no person, by himself or another, shall sell any substance designed to be used as a substitute for butter or cheese unless he shall inform the purchaser distinctly, at the time of the sale, that the same is a substitute for butter or cheese, as the case may be, and shall deliver to the purchaser, at the time of the sale, a copy of the statement described in section three of this Act; and no person shall use in any way in connection or association with the sale, or exposure for sale, or advertisement of any substance designed to be used as a substitute for butter or cheese, the words "butterine," "creamery," or "dairy," or the representation of any breed of dairy cattle, or any combination of such words and representation, or any other words or symbols, or combinations thereof, commonly used by the dairy industry in the sale of butter or cheese.

SEC. 7. No keeper or proprietor of any bakery, hotel, boarding-house, restaurant, saloon, lunch counter, or other place of public entertainment, or any person having charge thereof, or employed thereat, or any person furnishing board for others than members of his own family, or for any employés where such board is furnished as the compensation, or as a part of the compensation, of any such employé, shall place before any patron or employé, for use as food, any substance designed to be used as a substitute for butter or cheese, unless the same be accompanied by a copy of the statement described in section three of this Act, and by a verbal notification to said patron that such substance is a substitute for butter or cheese.

SEC. 8. No action can be maintained on account of any sale or other contract made in violation of, or with intent to violate, this Act by or through any person who was knowingly a party to such wrongful sale or other contract.

SEC. 9. Every person having possession or control of any substance designed to be used as a substitute for butter or cheese, which is not marked as required by the provisions of this Act, shall be presumed to have known, during the time of such possession or control, that the same was imitation butter or imitation cheese, as the case may be.

SEC. 10. No person shall efface, erase, cancel, or remove any mark, statement, or label provided for by this Act, with intent to mislead, deceive, or to violate any of the provisions of this Act.

SEC. 11. No butter or cheese not made wholly from pure milk or cream, salt, and harmless coloring matter, shall be used in any of the charitable or penal institutions that receive assistance from the State.

SEC. 12. Whoever shall violate any of the provisions or sections of this Act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished, for the first offense,

by a fine of not less than fifty dollars nor more than one hundred and fifty dollars, or by imprisonment in the county jail for not exceeding thirty days; and for each subsequent offense, by a fine of not less than one hundred and fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the Court. One half of all the fines collected under the provisions of this Act shall be paid to the person or persons furnishing information upon which conviction is procured.

SEC. 13. Whoever shall have possession or control of any imitation butter or imitation cheese, or any substance designed to be used as a substitute for butter or cheese, contrary to the provisions of this Act, shall be construed to have possession of property with intent to use it as a means of committing a public offense, within the meaning of chapter three of title twelve of part two of an Act to establish a Penal Code; *provided*, that it shall be the duty of the officer who serves a search warrant issued for imitation butter or imitation cheese, or any substance designed to be used as a substitute for butter or cheese, to deliver to the agent of the Dairy Bureau, or to any person by such Dairy Bureau authorized in writing to receive the same, a perfect sample of each article seized by virtue of such warrant, for the purpose of having the same analyzed, and forthwith to return to the person from whom it was taken the remainder of each article seized as aforesaid. If any sample be found to be imitation butter or imitation cheese, or substance designed to be used as a substitute for butter or cheese, it shall be returned to and retained by the magistrate as and for the purpose contemplated by section fifteen hundred and thirty-six of an Act to establish a Penal Code; but if any sample be found not to be imitation butter or imitation cheese, or a substance designed to be used as a substitute for butter or cheese, it shall be returned forthwith to the person from whom it was taken.

SEC. 14. It shall be the duty of the District Attorney, upon the application of the agent of the Dairy Bureau, to attend to the prosecution, in the name of the State, of any suit brought for the violation of any of the provisions of this Act within his district.

SEC. 15. The Governor shall, immediately upon the enactment of this Act, appoint three resident citizens of the State, who shall have practical experience in the manufacture of dairy products, to constitute a State Dairy Bureau, and who shall serve until the first day of July, eighteen hundred and ninety-seven; and on the said first day of July, eighteen hundred and ninety-seven, the State Dairy Bureau shall cease to exist, and all provisions in this Act relating to said State Dairy Bureau shall be null and void; all other provisions in this Act, however, shall remain in full force and effect. The members of said Bureau shall serve without compensation, and within twenty days after their appointment shall take the oath of office as required by the Constitution, and they shall thereupon meet and organize by electing a Chairman and Treasurer.

Any one of them may be removed from office by the Governor, for neglect or violation of duty. The Governor shall fill any vacancy by appointment. They shall make a report in detail to the Legislature, not later than the first day of December, eighteen hundred and ninety-six.

SEC. 16. It shall be the duty of the State Dairy Bureau to secure, as far as possible, the enforcement of this Act. The State Dairy Bureau shall have power to employ an agent at a salary of twelve hundred dollars a year, and such assistants, or chemists, as from time to time may be necessary therefor.

SEC. 17. There is hereby appropriated for the use of this State Dairy Bureau, out of any money in the State Treasury not otherwise appropriated, the sum of twelve thousand dollars (\$12,000), of which not more than two thousand dollars (\$2,000) shall be expended during the unexpired portion of the forty-sixth fiscal year, and not more than five thousand dollars (\$5,000) shall be expended during the forty-seventh fiscal year, and not more than five thousand dollars (\$5,000) shall be expended during the forty-eighth fiscal year. All salaries, fees, costs, and expenses of every kind incurred in the carrying out of the law shall be drawn from the sum so appropriated; and the State Controller shall draw his warrant on the State Treasurer in favor of the person entitled to the same.

SEC. 18. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

SEC. 19. This Act shall take effect immediately.

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## CHAPTER XXXIX.

*An Act to authorize the State Board of Health to purchase and manufacture diphtheria anti-toxine, and to appropriate six thousand dollars therefor.*

[Approved March 12, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The State Board of Health is hereby authorized to procure, manufacture, and distribute, through some department of the State University, the medicinal substance known as diphtheria anti-toxine.

SEC. 2. The sum of six thousand dollars is hereby appropriated out of the General Fund, to be expended under the direction of the State Board of Health, for the procurement, preparation, and distribution of diphtheria anti-toxine under the supervision of said State Board of Health.

SEC. 3. This Act to take effect immediately.

## CHAPTER XL.

*An Act to amend section six hundred and seventy of an Act entitled "An Act to establish a Code of Civil Procedure," approved March 11, 1872, in relation to what papers constitute a judgment roll.*

[Approved March 12, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section six hundred and seventy of an Act entitled "An Act to establish a Code of Civil Procedure," approved March eleventh, eighteen hundred and seventy-two, is hereby amended to read as follows:

670. Immediately after entering the judgment, the Clerk must attach together and file the following papers, which constitute the judgment roll:

1. In case the complaint be not answered by any defendant, the summons, with the affidavit or proof of service; the complaint with a memorandum indorsed thereon that the default of the defendant in not answering was entered, and a copy of the judgment; and in case where the service so made be by publication, the affidavit for publication of summons, and the order directing the publication of summons, must also be included.

2. In all other cases, the pleadings, a copy of the verdict of the jury or finding of the Court or referee, all bills of exceptions taken and filed, and a copy of any order made on demurrer, or relating to the change of parties, and a copy of the judgment; if there are two or more defendants in the action, and any one of them has allowed judgment to pass against him by default, the summons, with proof of its service on such defendant, must also be added to the other papers mentioned in this subdivision; and if the service on such defaulting defendant be by publication, then the affidavit for publication, and the order directing the publication of the summons in such cases must also be included.

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## CHAPTER XLI.

*An Act to amend an Act entitled "An Act to establish law libraries," approved March 1, 1891, and to add a new section thereto, for the purpose of disestablishing such law libraries, such new section to be numbered fourteen and one half.*

[Approved March 12, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. An Act entitled "An Act to establish law libraries," approved March first, eighteen hundred and ninety-one, is

hereby amended by adding a new section thereto, to be known as section fourteen and one half, and to read as follows:

Section 144. Whenever the Board of Supervisors in any county in this State which shall have adopted the provisions of this Act and have established a law library, desire to discontinue such law library, they shall by ordinance so declare their intention so to do, and shall provide in such ordinance that the books already in the library shall be transferred to and kept in the chambers of the Judges of the Superior Court of such county; and all moneys on hand in the Library Fund of such county shall be by the same ordinance transferred to the School Fund of such county, and the office of the Board of Trustees of such law library shall be abolished. After such an ordinance shall take effect, the County Clerk of such county shall not collect the fees provided for in section one of said Act.

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## CHAPTER XLII.

*An Act to amend section three thousand four hundred and forty of the Civil Code of the State of California, relative to the transfer of personal property.*

[Approved March 12, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

Section three thousand four hundred and forty of the Civil Code of the State of California is hereby amended to read as follows:

3440. Every transfer of personal property, other than a thing in action, or a ship or cargo at sea or in a foreign port, and every lien thereon, other than a mortgage, when allowed by law, and a contract of bottomry or respondentia, is conclusively presumed, if made by a person having at the time the possession or control of the property, and not accompanied by an immediate delivery, and followed by an actual and continued change of possession of the things transferred, to be fraudulent, and therefore void, against those who are his creditors while he remains in possession, and the successors in interest of such creditors, and against any persons on whom his estate devolves in trust for the benefit of others than himself, and against purchasers or incumbrancers in good faith subsequent to the transfer; *provided, however,* that the provisions of this section shall not apply to the transfers of wines in the wineries or wine cellars of the makers or owners thereof, or other persons having possession, care, and control of the same, and the pipes, casks, and tanks in which the said wines are contained, which transfers shall be made in writing, and certified and acknowledged and verified in the same form as provided for chattel mortgages, and which shall be recorded in the book of miscellaneous records in the office of the County Recorder of the county in which the same are situated.

## CHAPTER XLVII.

*An Act to amend sections eighteen hundred and fifty-nine and eighteen hundred and sixty of the Civil Code, prescribing and limiting the liability of innkeepers, hotel-keepers, boarding and lodging-house keepers, for personal property of their guests, boarders, and lodgers, intrusted to their care.*

[Approved March 12, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section eighteen hundred and fifty-nine of the Civil Code is hereby amended so as to read as follows:

1859. The liability of an innkeeper, hotel-keeper, boarding and lodging-house keeper, for losses of or injuries to personal property, other than money, placed by his guests, boarders, or lodgers under his care, is that of a depositary for hire; *provided, however,* that in no case shall such liability exceed the sum of one hundred dollars for each trunk and its contents, fifty dollars for each valise or traveling bag and contents, and ten dollars for each box, bundle, or package and contents, so placed under his care, unless he shall have consented in writing with the owner thereof to assume a greater liability.

SEC. 2. Section eighteen hundred and sixty of the Civil Code is hereby amended so as to read as follows:

1860. If an innkeeper, hotel-keeper, boarding-house or lodging-house keeper, keeps a fire-proof safe, and gives notice to a guest, boarder, or lodger, either personally or by putting up a printed notice in a prominent place in the office or the room occupied by the guest, boarder, or lodger, that he keeps such a safe and will not be liable for money, jewelry, documents, or other articles of unusual value and small compass, unless placed therein, he is not liable, except so far as his own acts shall contribute thereto, for any loss of or injury to such articles, if not deposited with him to be placed therein, nor in any case more than the sum of two hundred and fifty dollars for any or all such property of any individual guest, boarder, or lodger, unless he shall have given a receipt in writing therefor to such guest, boarder, or lodger.

SEC. 3. This Act shall take effect from and after its approval.

## CHAPTER XLVIII.

*An Act to amend section twelve hundred and fourteen of an Act entitled "An Act to establish a Civil Code," approved March 21, 1872, relating to the recording of conveyances.*

[Approved March 12, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section twelve hundred and fourteen of an Act entitled "An Act to establish a Civil Code," approved March twenty-first, eighteen hundred and seventy-two, is hereby amended to read as follows:

**1214.** Every conveyance of real property, other than a lease for a term not exceeding one year, is void as against any subsequent purchaser or mortgagee of the same property, or any part thereof, in good faith and for a valuable consideration, whose conveyance is first duly recorded, and as against any judgment affecting the title, unless such conveyance shall have been duly recorded prior to the record of notice of action.

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## CHAPTER XLIX.

*An Act to amend section five hundred and twenty-seven of an Act entitled "An Act to establish a Code of Civil Procedure," approved March 11, 1872.*

[Approved March 12, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section five hundred and twenty-seven (527) of an Act entitled "An Act to establish a Code of Civil Procedure," approved March eleventh, eighteen hundred and seventy-two, is hereby amended so as to read as follows:

**527.** The injunction may be granted at the time of issuing the summons, upon the complaint, and at any time afterward, before judgment, upon affidavits. The complaint in the one case, and the affidavits in the other, must show satisfactorily that sufficient grounds exist therefor. No injunction can be granted on the complaint unless it is verified. When granted on the complaint, a copy of the complaint and verification attached must be served with the injunction; when granted upon affidavit, a copy of the affidavit must be served with the injunction. No injunction granted prior to the actual trial of the cause wherein it is granted shall continue in force for a longer period than twelve months from the time such injunction was granted, except by consent of the parties, or unless the cause be set for trial upon its merits.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER LI.

*An Act providing in counties of the first class for the appointment by the Coroner of a competent physician for the performance of autopsies upon the bodies of deceased persons when inquests are held, and fixing the compensation therefor.*

[Approved March 14, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. In counties of the first class, the Coroner shall appoint a competent physician, whose duties it shall be to perform autopsies upon the bodies of all deceased persons when inquests are held. Such physician shall, after the performance of such autopsy, certify in writing his professional opinion as to the cause of death, which certificate shall be filed with said Coroner.

SEC. 2. The physician so appointed shall receive as compensation for his said services the sum of twenty-four hundred dollars per annum, which shall be paid out of the general fund of the county in monthly installments of two hundred dollars, at the same time and in the same manner as county officers are paid.

SEC. 3. This Act shall take effect and be in force from and after its passage.

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## CHAPTER LII.

*An Act to amend section four thousand two hundred and thirty-five of an Act entitled "An Act to establish a Political Code," approved March 12, 1872, relating to the lien of judgments of Federal Courts.*

[Approved March 14, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section four thousand two hundred and thirty-five of an Act entitled "An Act to establish a Political Code," is hereby amended so as to read as follows, to wit:

4235. He must, upon the payment of his fees for the same, record separately, in large and well-bound separate books, in a fair hand:

1. Deeds, grants, transfers, and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged or proved;

2. Mortgages of personal property;
3. Certificates of marriage and marriage contracts;
4. Wills admitted to probate;
5. Official bonds;
6. Notices of mechanics' liens;

7. Transcripts of judgments which, by law of this State, or of the United States, are made liens upon real estate in this State;
8. Notices of attachments upon real estate;
9. Notices of the pendency of an action affecting real estate, the title thereto, or possession thereof;
10. Instruments describing or relating to the separate property of married women;
11. Notices of preëmption claims;
12. Births and deaths; and,
13. Such other writings as are required or permitted by law to be recorded.

SEC. 2. This Act shall take effect immediately.

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#### CHAPTER LIII.

*An Act to amend section one thousand and ninety-three of an Act entitled "An Act to establish a Civil Code," approved March 21, 1872, relating to the making, execution, and acknowledgment of conveyances of real property by married women.*

[Approved March 14, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one thousand and ninety-three of the Civil Code of the State of California is hereby amended so as to read as follows:

1093. A grant or conveyance of real property made by a married woman may be made, executed, and acknowledged in the same manner and has the same effect as if she were unmarried.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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#### CHAPTER LVIII.

*An Act entitled an Act to amend section two hundred and seventy-six of the Code of Civil Procedure, relating to the examination of applicants for admission to practice law.*

[Approved March 16, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two hundred and seventy-six of the Code of Civil Procedure is hereby amended so as to read as follows:

276. Every applicant for admission as an attorney and counselor must produce satisfactory testimonials of a good moral character, and undergo a strict examination in open Court as to his qualifications, by the Justices of the Supreme

Court, or by the Justices sitting and holding one of the departments thereof, or by not less than three of the Supreme Court Commissioners, to be designated and appointed by the Chief Justice of the Supreme Court to conduct publicly the examination; such Commissioners to report the results of the examination to the Supreme Court for final action.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER LX.

*An Act entitled an Act to amend section two thousand nine hundred and fifty-five of the Civil Code, relative to mortgages on personal property.*

[Approved March 16, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two thousand nine hundred and fifty-five of the Civil Code is hereby amended so as to read as follows:

2955. Mortgages may be made upon the following personal property, and none other:

*First*—Locomotives, engines, and other rolling stock of a railroad.

*Second*—Steamboat machinery, the machinery used by machinists, foundrymen, and mechanics.

*Third*—Steam engines and boilers.

*Fourth*—Mining machinery.

*Fifth*—Printing presses and material.

*Sixth*—Professional libraries.

*Seventh*—Instruments of surveyors, physicians, or dentists.

*Eighth*—Upholstery, furniture, and household goods.

*Ninth*—Oil paintings, pictures, and works of art.

*Tenth*—All growing crops, including grapes and fruit.

*Eleventh*—Vessels of more than five tons burden.

*Twelfth*—Instruments, negatives, furniture, and fixtures of a photograph gallery.

*Thirteenth*—The machinery, casks, pipes, tubes, and utensils used in the manufacture or storage of wine, fruit brandy, fruit syrups, or sugar; also wines, fruit brandy, fruit syrup, or sugar, with the cooperage in which the same are contained.

*Fourteenth*—Pianos and organs.

*Fifteenth*—Iron and steel safes.

*Sixteenth*—Neat cattle, horses, mules, swine, and sheep, and the increase thereof.

*Seventeenth*—Harvesters, threshing outfits, hay presses, and farming implements.

*Eighteenth*—Abstract systems, books, maps, papers, and slips of searchers of records.

SEC. 2. This Act shall take effect and be in force immediately upon its passage.

## CHAPTER LXIII.

*An Act to amend section nine hundred and fifty-four of the Code of Civil Procedure, relating to dismissal of appeals.*

[Approved March 16, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section nine hundred and fifty-four of the Code of Civil Procedure is amended so as to read as follows:

954. If the appellant fails to furnish the requisite papers, the appeal may be dismissed; but no appeal can be dismissed for insufficiency of the undertaking thereon, if a good and sufficient undertaking, approved by a Justice of the Supreme Court, be filed in the Supreme Court before the hearing upon motion to dismiss the appeal. When it is made to appear to the satisfaction of the Court, or a Judge thereof, from which the appeal was taken, that a surety or sureties upon an appeal bond from any cause has or have become insufficient, and the bond or undertaking inadequate as security for the payment of the judgment appealed from, the last named Court, or a Judge thereof, may order the giving of a new bond, with sufficient sureties, as a condition to the maintenance of the appeal. The said bond or undertaking shall be approved by the last named Court, or a Judge thereof; and in case said sureties fail to justify before said last named Court, or a Judge thereof, or fail to comply with the order to appear and justify, execution may issue upon the judgment as if no undertaking to stay execution had been given.

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## CHAPTER LXV.

*An Act to amend section one thousand five hundred and forty-three of "An Act to establish a Political Code," approved March 12, 1872.*

[Approved March 16, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one thousand five hundred and forty-three (1543) of an Act entitled "An Act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, is hereby amended to read as follows:

1543. It is the duty of the County Superintendent of each county:

*First*—To superintend the schools of his county.

*Second*—1. To apportion the school moneys to each school district, as provided in section one thousand eight hundred and fifty-eight of this Code, at least four times a year. For this purpose he may require of the County Auditor a report of the

amount of all school moneys on hand to the credit of the several school funds of the county not already apportioned; and it is hereby made the duty of the Auditor to furnish such report when so required; and whenever an excess of money has accumulated to the credit of a school district by reason of a large census roll and a small attendance, beyond a reasonable amount necessary to maintain a school for eight months in such district for the year, the Superintendent of Schools shall place said excess of money to the credit of the unapportioned school funds of the county, and shall apportion the same as other school funds are apportioned.

2. If in any school district there has been an average daily attendance of only five, or a number of pupils less than five, during the whole school year, the Superintendent shall at once suspend the district, and report the fact to the Board of Supervisors at their next meeting. The Board of Supervisors, upon receiving such report from the Superintendent, shall declare the district lapsed, and shall attach the territory thereof to one or more of the adjoining school districts in such manner as may be by them deemed most convenient for the residents of said lapsed district.

3. When any district has been declared lapsed, the Board of Supervisors shall sell or otherwise dispose of the property thereto belonging, and shall place the proceeds of such sale to the credit of the district. Thereupon the Superintendent shall determine all outstanding indebtedness of said lapsed district, and shall draw his requisition upon the County Auditor in payment thereof. Any balance of moneys remaining to the credit of said lapsed district shall be transferred by the Superintendent to the unapportioned school funds of the county, and shall be apportioned as other school funds are apportioned. Should there not be sufficient funds to the credit of the lapsed district to liquidate all of the outstanding indebtedness thereof, the Superintendent shall draw his requisition upon the County Auditor pro rata for the several claims.

*Third*—On the order of the Board of School Trustees, or Board of Education of any city or town having a Board of Education, to draw his requisition upon the County Auditor for all necessary expenses against the School Fund of any district. The requisitions must be drawn in the order in which the orders therefor are filed in his office. Each requisition must specify the purpose for which it is drawn; but no requisition shall be drawn unless the money is in the fund to pay it; and no requisition shall be drawn upon the order of the Board of School Trustees or Board of Education against the funds of any district, except the teachers' salaries, unless such order is accompanied by an itemized bill showing the separate items, and the price of each, in payment for which the order is drawn; nor shall any requisition for teachers' salaries be drawn unless the order shall state the monthly salary of teacher, and name the months for which such salary is due. Upon the receipt of such requisition the Auditor shall draw his warrant upon the County

Treasurer in favor of the parties for the amount stated in such requisition.

*Fourth*—To keep, open to the inspection of the public, a register of requisitions, showing the fund upon which the requisitions have been drawn, the number thereof, in whose favor, and for what purpose they were drawn, and also a receipt from the person to whom the requisition was delivered.

*Fifth*—To visit and examine each school in his county at least once in each year. For every school not so visited the Board of Supervisors must, on proof thereof, deduct ten dollars from his salary.

*Sixth*—To preside over Teachers' Institutes held in his county, and to secure the attendance thereat of lecturers competent to instruct in the art of teaching, and to report to the County Board of Education the names of all teachers in the county who fail to attend regularly the sessions of the Institute; to enforce the course of study, the use of text-books, and the rules and regulations for the examination of teachers prescribed by the proper authority.

*Seventh*—He shall have power to issue, if he deem it proper to do so, temporary certificates, valid until the next semi-annual meeting of the County Board of Education, to persons holding certificates of like grade granted in other counties, cities, or cities and counties, or upon any certificates or diplomas upon which County Boards are empowered to grant certificates without examination, as specified in section seventeen hundred and seventy-five; *provided*, that no person shall be entitled to receive such temporary certificate more than once in the same county.

*Eighth*—To distribute all laws, reports, circulars, instructions, and blanks which he may receive for the use of school officers.

*Ninth*—To keep in his office the reports of the Superintendent of Public Instruction.

*Tenth*—To keep a record of his official acts, and of all the proceedings of the County Board of Education, including a record of the standing, in each study, of all applicants examined, which shall be open to the inspection of any applicant or his authorized agent.

*Eleventh*—Except in incorporated cities having Boards of Education, to pass upon and approve or reject all plans for school houses. To enable him to do so, all Boards of Trustees, before adopting any plans for school buildings, must submit the same to the County Superintendent for his approval.

*Twelfth*—To appoint Trustees to fill all vacancies, to hold until the first day of July succeeding such appointment; when new districts are organized, to appoint Trustees for the same, who shall hold office until the first day of July next succeeding their appointment. In case of the failure of the Trustees to employ a janitor, as provided in section sixteen hundred and seventeen, subdivision seventh, of this Code, he shall appoint a janitor, who shall be paid out of the School Fund of the district. Should the Board of School Trustees of any district fail or refuse to issue an order for the compensation for such service,

the Superintendent is hereby authorized to issue, without such order, his requisition upon the County School Fund apportioned to such district.

*Thirteenth*—To make reports, when directed by the Superintendent of Public Instruction, showing such matters relating to the public schools in his county as may be required of him.

*Fourteenth*—To preserve carefully all reports of school officers and teachers, and, at the close of his official term, deliver to his successor all records, books, documents, and papers belonging to the office, taking a receipt for the same, which will be filed in the office of the County Clerk.

*Fifteenth*—The County Superintendent shall, unless otherwise provided by law, in the month of July of each year, grade each school, and a record thereof shall be made in a book to be kept by the County Superintendent in his office for this purpose. And no teacher holding a certificate below the grade of said school shall be employed to teach the same.

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## CHAPTER LXVI.

*An Act to amend section four hundred and sixteen of an Act entitled "An Act to establish a Political Code," approved March 12, 1872, relative to the fees to be collected by the Secretary of State for services rendered by him in his official capacity.*

[Approved March 16, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section four hundred and sixteen of an Act entitled "An Act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, is hereby amended to read as follows:

416. The Secretary of State, for services performed in his office, must charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in his office, twenty cents per folio.
2. For affixing certificate and seal of State, two dollars.
3. For filing articles of incorporation, five dollars.
4. For recording articles of incorporation, twenty cents per folio.
5. For issuing each certificate of incorporation, three dollars.
6. For receiving and recording each official bond, five dollars.
7. For each commission, passport, or other document signed by the Governor and attested by the Secretary of State (pardons, military commissions, and extradition papers excepted), five dollars.
8. For each patent for land issued by the Governor, if for one hundred sixty acres or less, one dollar; and for each additional one hundred sixty acres or fraction thereof, one dollar.
9. For searching records and archives of the State, one dollar.
10. For filing trademark, three dollars.

11. For filing and recording notice of appointment of agent, five dollars.
12. For filing and recording notice of removal of place of business, five dollars.
13. For filing certificate of increase or decrease of capital stock, five dollars.
14. For issuing certificate of increase or decrease of capital stock, three dollars.
15. For filing certificate of continuance of existence, five dollars.
16. For issuing certificate of continuance of existence, three dollars.
17. For certificate of appointment, qualification, and term of office of Notary Public, one dollar.
18. For recording miscellaneous documents or papers, per folio, twenty-five cents.

No member of the Legislature or State officer shall be charged for any search relative to matters appertaining to the duties of their offices; nor shall they be charged any fee for a certified copy of any law or resolution passed by the Legislature relative to their official duties. All fees collected by the Secretary of State must, at the end of each month, be paid into the State Treasury, and shall constitute the State Library Fund.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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## CHAPTER LXVII.

*An Act to amend section sixteen hundred and ninety-nine of the Code of Civil Procedure, relating to settlement of accounts of trustees after distribution of estates, and to compensation of trustees.*

[Approved March 16, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section sixteen hundred and ninety-nine of the Code of Civil Procedure is hereby amended so as to read as follows:

1699. Where any trust has been created by or under any will to continue after distribution, the Superior Court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction thereof for the purpose of the settlement of accounts under the trust. And any trustee created by any will, or appointed to execute any trust created by any will, may, from time to time, pending the execution of his trust, or may at the termination thereof, render and pray for the settlement of his accounts as such trustee, before the Superior Court in which the will was probated, and in the manner provided for the settlement of the accounts of executors and administrators. The trustee, or in case of his death, his legal representatives, shall for that purpose present to the Court his

verified petition, setting forth his accounts in detail, together with a verified statement of said trustee, giving the names and post office addresses, if known, of the *cestuis que* trust, and upon the filing thereof, the Court or Judge shall fix a day for the hearing. The Clerk must thereupon give notice thereof, of not less than ten days, by causing notices to be posted in at least three public places in the county, setting forth the name of the trust estate, the trustee, and the day appointed for the settlement of the account. The Court, or a Judge thereof, may order such further notice to be given as may be proper; and any such trustee may, in the discretion of the Court, upon application of any beneficiary of the trust, be ordered to appear and render his account, after being cited by service of citation, as provided for the service of summons in civil cases. Upon the filing of the account so ordered, the same proceedings for the hearing and settlement thereof shall be had as are hereinabove provided.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER LXX.

*An Act to amend section four hundred and seventy-two of the Political Code, providing for an assistant and deputies in the Attorney-General's office, fixing their salaries, and prohibiting the employment of other attorneys at the expense of the State.*

[Approved March 16, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section four hundred and seventy-two of the Political Code is hereby amended so as to read as follows:

472. The Attorney-General may appoint one assistant, who shall be a member of the State Board of Examiners when the Attorney-General is absent from the Capitol, and three deputies, who shall be civil executive officers. The annual salary of the assistant shall be twenty-seven hundred dollars; the annual salary of the first deputy shall be twenty-four hundred dollars; the annual salary of the second deputy shall be twenty-four hundred dollars; the annual salary of the third deputy shall be twenty-four hundred dollars. Said salaries shall be payable in the same manner as salaries of other State officers.

Subdivision 1. The Attorney-General shall not employ special counsel in any case except those provided in section four hundred and seventy-four of the Political Code.

Subdivision 2. The Attorney-General shall have charge, as attorney, of all legal matters in which the State is in anywise interested, except the business of the Regents of the University of California and of the State Harbor Commissioners, and no board, officer or officers, or employé of the State, except said Regents and said Harbor Commissioners, shall employ any

attorney other than the Attorney-General, or one of his assistants or deputies, in any matter in which the State is interested; nor shall any money be drawn out of the Treasury, or out of any moneys appropriated out of the Treasury, or out of any special or contingent fund under the control of any board, officer or officers, or employé, for the pay of any legal services rendered after the passage of this Act, the provisions of any existing statute to the contrary notwithstanding; *provided*, that whenever a District Attorney in any county of this State shall, for any reason, become disqualified from conducting any criminal prosecution within such county, the Attorney-General may employ special counsel to conduct such prosecution, and the attorney's fee in such case shall be a legal charge against the State.

Subdivision 3. All Acts in conflict with this Act are hereby repealed.

*Provided further*, that nothing herein contained shall be construed to prevent or deny the right of any board, officer or officers, or employé of the State to employ or engage counsel in any matter of the State, after first having obtained the written consent so to do of the Attorney-General.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER LXXIV.

*An Act to amend section fourteen hundred and sixteen of the Civil Code of this State, relating to water rights.*

[Approved March 23, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section fourteen hundred and sixteen of the Civil Code of this State is hereby amended so as to read as follows:

1416. Within sixty days after the notice is posted the claimant must commence the excavation or construction of the works in which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted by snows or rain; *provided*, that if the erection of a dam has been recommended by the California Debris Commission at or near the place where it is intended to divert the water, the claimant shall have sixty days after the completion of such dam in which to commence the excavation or construction of the works in which he intends to divert the water.

SEC. 2. This Act shall take effect immediately from and after its passage.

## CHAPTER LXXVI.

*An Act to provide against the adulteration of food and drugs.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. No person shall, within this State, manufacture for sale, offer for sale, or sell any drug or article of food which is adulterated within the meaning of this Act.

SEC. 2. The term "drug," as used in this Act, shall include all medicines for internal or external use, antiseptics, disinfectants, and cosmetics. The term "food," as used herein, shall include all articles used for food or drink by man, whether simple, mixed, or compound.

SEC. 3. Any article shall be deemed to be adulterated within the meaning of this Act:

(a) In the case of drugs: (1) If, when sold under or by a name recognized in the United States Pharmacopœia, it differs from the standard of strength, quality, or purity laid down therein. (2) If, when sold under or by a name not recognized in the United States Pharmacopœia, but which is found in some other pharmacopœia or other standard work on *materia medica*, it differs materially from the standard of strength, quality, or purity laid down in such work. (3) If its strength, quality, or purity falls below the professed standard under which it is sold.

(b) In the case of food: (1) If any substance or substances have been mixed with it, so as to lower or deprecate, or injuriously affect its quality, strength, or purity. (2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it. (3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it. (4) If it is an imitation of, or is sold under the name of, another article. (5) If it consists wholly, or in part, of a diseased, decomposed, putrid, infected, tainted, or rotten animal or vegetable substance or article, whether manufactured or not; or in the case of milk, if it is the produce of a diseased animal. (6) If it is colored, coated, polished, or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is. (7) If it contains any added substance or ingredient which is poisonous or injurious to health.

*Provided*, that the provisions of this Act shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food, if each and every package sold or offered for sale be distinctly labeled as mixtures or compounds, with the name and per cent of each ingredient therein, and are not injurious to health.

SEC. 4. Every person manufacturing, exposing or offering for sale, or delivering to a purchaser, any drug or article of

food included in the provisions of this Act, shall furnish to any person interested, or demanding the same, who shall apply to him for the purpose, and shall tender him the value of the same, a sample sufficient for the analysis of any such drug or article of food which is in his possession.

SEC. 5. Whoever refuses to comply, upon demand, with the requirements of section four, and whoever violates any of the provisions of this Act, shall be guilty of a misdemeanor, and shall be fined not exceeding one hundred nor less than twenty-five dollars, or imprisoned in the county jail not exceeding one hundred nor less than thirty days, or both. And any person found guilty of manufacturing, offering for sale, or selling, an adulterated article of food or drug under the provisions of this Act shall be adjudged to pay, in addition to the penalties hereinbefore provided for, all the necessary costs and expenses incurred in inspecting and analyzing such adulterated articles of which said person may have been found guilty of manufacturing, selling, or offering for sale.

SEC. 6. This Act shall be in force and take effect from and after its passage.

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## CHAPTER LXXVII.

*An Act to amend section seven hundred and thirty-eight of the Code of Civil Procedure, relating to actions to determine adverse claims to property.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred and thirty-eight of the Code of Civil Procedure is hereby amended to read as follows:

738. An action may be brought by any person against another who claims an estate or interest in real property, adverse to him, for the purpose of determining such adverse claim; *provided, however,* that whenever in an action to quiet title to, or to determine adverse claims to, real property, the validity of any gift, devise, or trust, under any will, or instrument purporting to be a will, whether admitted to probate or not, shall be involved, such will, or instrument purporting to be a will, is admissible in evidence; and all questions concerning the validity of any gift, devise, or trust therein contained, save such as under the Constitution belong exclusively to the probate jurisdiction, shall be finally determined in such action; and *provided, however,* that nothing herein contained shall be construed to deprive a party of the right to a jury trial in any case where, by the law, such right is now given.

SEC. 2. This Act shall take effect from and after its passage.

## CHAPTER LXXIX.

*An Act to amend the Penal Code of the State of California, by adding a new section thereto, to be known as section forty, in relation to punishment of crimes against election laws.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is hereby added to the Penal Code, to be known as section forty, to read as follows:

40. Any person who acts as an election officer at any election, without first having been appointed and qualified as such, and any person who, not being an election officer, performs or discharges any of the duties of an election officer, in regard to the handling or counting or canvassing of any ballots cast at any election, shall be guilty of a felony, and on conviction be punished by imprisonment in the State Prison for not less than two nor more than seven years.

SEC. 2. This Act shall be in force from and after its passage.

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## CHAPTER LXXX.

*An Act to amend section one thousand six hundred and ninety-one of the Code of Civil Procedure of the State of California, relating to agents for absent interest parties, discharge of executors or administrators.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one thousand six hundred and ninety-one of the Code of Civil Procedure is hereby amended to read as follows:

1691. When any estate is assigned or distributed, by a judgment or decree of the Court, as provided in this chapter, to any person residing out of, and having no agent in this State, and it is necessary that some person should be authorized to take possession and charge of the same for the benefit of such absent person, the Court may appoint an agent for that purpose and authorize him to take charge of such estate, as well as to act for such absent person in the distribution; provided, that if such estate be in money when so assigned or distributed, the executor or administrator of such estate may deposit the share of each person, and in the name of said person, as far as known, as designated in said assignment or decree of distribution, with the County Treasurer of the county in which said estate is being probated, who shall give a receipt for the same, and be liable upon his official bond therefor; and

said receipt shall be deemed and received by the Court, or Judge thereof, as a voucher in favor of said executor or administrator, with the same force and effect as if executed by such assignee, legatee, or distributee; and said section as amended shall be applicable to any and all estates now pending in which a decree of final discharge has not been granted.

This Act shall be in force from and after its passage.

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## CHAPTER LXXXI.

*An Act to provide the manner of execution of deeds by cemetery corporations.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. All deeds or conveyances executed by cemetery associations or incorporations within this State, shall be executed in the name of the corporation or association, under the seal thereof, by the President, or Vice-President, and Secretary thereof.

SEC. 2. All Acts and parts of Acts in conflict with this statute, in so far as they conflict with the same, are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage.

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## CHAPTER LXXXII.

*An Act to amend section seven hundred and seventeen of an Act entitled "An Act to establish a Civil Code," approved March 21, 1872, relating to leases of agricultural lands.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred and seventeen of the Civil Code is hereby amended to read as follows:

717. No lease or grant of land for agricultural purposes, for a longer period than ten years, in which shall be reserved any rent or service of any kind, shall be valid.

## CHAPTER LXXXIV.

*An Act authorizing and requiring boards or commissions having the management and control of paid fire departments, to grant the members thereof yearly vacations.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. In every city, or city and county, of this State, where there is a regularly organized paid fire department, the Board of Supervisors, Common Council, Commissions, or other body having the management and control of the same, are authorized and required, once in every year, to provide for granting each member thereof a leave of absence from active duty for a period of not less than ten nor more than fifteen days. Leaves of absence so granted must be arranged by said board or commission so as not to interfere with or in any way impair the efficiency of the department; and leaves of absence granted in cases of sickness, or in consequence of injuries received while in the discharge of duty, shall not be construed to be or become a part of the leave of absence provided for by this Act. No deduction must be made from the pay of any member of such fire department granted a leave of absence under the provisions of this Act.

Sec. 2. This Act shall take effect immediately.

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## CHAPTER LXXXV.

*An Act to repeal an Act entitled "An Act concerning corporations and persons engaged in the business of banking," approved April 1, 1876.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. That an Act entitled "An Act concerning corporations and persons engaged in the business of banking," approved April first, eighteen hundred and seventy-six, be and the same is hereby repealed.

Sec. 2. This Act shall take effect and be in force from and after its passage.

## CHAPTER LXXXVI.

*An Act to add a new section to the Penal Code of the State of California, to be known and designated as section five hundred and two and one half, relating to the severance and removal of fixtures and improvements upon mortgaged property.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is hereby added to the Penal Code, to be known and designated as section five hundred and two and a half, to read as follows:

502½. Every person who, after mortgaging any real property, and during the existence of such mortgage, or after such mortgaged property shall have been sold under an order and decree of foreclosure, and with intent to defraud or injure the mortgagee, his representatives, successors, or assigns, or the purchaser of such mortgaged premises at such foreclosure sale, his representatives or assigns, takes, removes, or carries away from such mortgaged premises, or otherwise disposes of, or permits the taking, removing, or carrying away, or otherwise disposing of, any house, barn, windmill, or water tank, upon or affixed to such premises as an improvement thereon, without the written consent of the mortgagee, his representatives, successors, or assigns, or the purchaser at such foreclosure sale, his representatives or assigns, is guilty of larceny, and shall be punished accordingly.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XC.

*An Act to amend section fifteen hundred and eighty-two of the Code of Civil Procedure, relating to the maintenance of civil actions by executors and administrators.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

Section fifteen hundred and eighty-two of the Code of Civil Procedure is hereby amended so as to read as follows:

1582. Actions for the recovery of any property, real or personal, or for the possession thereof, or to quiet title thereto, or to determine any adverse claim thereon, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER XCIV.

*An Act to amend sections three thousand four hundred and forty-nine and three thousand four hundred and sixty-eight of the Civil Code of the State of California, relating to assignments for the benefit of creditors.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Sections three thousand four hundred and forty-nine and three thousand four hundred and sixty-eight of the Civil Code of the State of California are hereby amended to read as follows:

**3449.** An insolvent debtor may in good faith execute an assignment of property in trust for the satisfaction of his creditors, in conformity to the provisions of this chapter; *subject, however,* to the provisions of this Code relative to trusts and fraudulent transfers, and to the restrictions imposed by law upon assignments by special partnerships, by corporations, or by other specific classes or persons. Every such assignment shall contain a list of the names of the creditors of the assignor, and their places of residence and amounts of their respective demands, and the amounts and nature of any security therefor, and shall, subject to the other provisions of this section, be made to the Sheriff of the county, or city and county, wherein the assignor resides, if the assignor resides within this State; or in case the assignor resides out of this State, then to the Sheriff of the county, or city and county, wherein the property assigned, or some of it, is situated; but when the assignor resides out of the State, an assignment made as herein provided may, by its terms, transfer any property of the assignor in this State. The Sheriff shall forthwith take possession of all the property so assigned to him, and keep the same till delivered by him, as hereinafter provided. When the assignment has been made, as herein provided, the Sheriff shall immediately, by mail, notify the creditors named in the assignment, at their places of residence as given therein, to meet at his office on a day and hour to be appointed by him, of not less than eight nor more than ten days from the date of the delivery of the assignment to him, for the purpose of electing one or more assignees, as they may determine, in the place and stead of the said Sheriff in the premises, and shall also publish a notice of such meeting, and the purpose thereof, at least once before such meeting, in some newspaper published in his county, or city and county. The notice so to be mailed shall also contain a statement of the amount of the demand of the creditor, and the amount and nature of any security therefor, as set forth in the assignment; and if any creditor shall not find the amount of his claim to be correctly so stated, he may file with said Sheriff, at or before such meeting, a statement, under oath, of his demand, and such statement shall, for the

purpose of voting as hereinafter provided, be accepted by said Sheriff as correct; and when no such statement is filed, the statement of amount as set forth in the assignment shall be accepted by the Sheriff as correct. No creditor having a mortgage or pledge of real or personal property of the debtor, or lien thereon, for securing the payment of a debt owing to him from the debtor, shall be allowed to vote any part of his claim at such meeting of creditors, unless he shall have first conveyed, released, or delivered up his said security to said Sheriff, for the benefit of all creditors of said assignor. At such meeting the Sheriff shall preside, and a majority in amount of demands present or represented by proxy shall control all questions and decisions. The creditors may adjourn such meeting from time to time, and may vote on all questions either in person or by proxy signed and acknowledged before any officer authorized to take acknowledgments, and filed with the Sheriff. At such a meeting, or any adjournment thereof, the creditors may elect one or more assignees from their own number, in the place and stead of the Sheriff, and the person or persons so elected shall afterwards be the assignee or assignees under the provisions of this title; and the Sheriff, by transfer in writing, acknowledged as required by section three thousand four hundred and fifty-eight, shall at once assign to such elected assignee or assignees, upon the trusts in this title provided, all the property so assigned to him, and deliver possession thereof. All recitals in such assignment by said Sheriff of notices of such meeting, and the holding thereof, and of the due election of such assignee or assignees, shall be *prima facie* proof of the facts recited. The Sheriff shall, before the delivery of such assignment, be paid the expenses incurred by him, and fees in such amount as would by law be collectible if the property assigned had been levied upon and safely kept under attachment. Thereupon, and after the record of such last named assignment, as in this title provided, such elected assignee or assignees shall take, and hold, and dispose of all such property and its proceeds, upon the trusts and conditions and for the purposes in this title provided.

SEC. 2. Section three thousand four hundred and sixty-eight of said Code is hereby amended to read as follows:

**3468.** Until a verified inventory has been made and filed, either by the assignor or assignee, as required by the provisions of this title, and the assignee has given the bond required by the last section, such assignee has no authority to dispose of the property of the estate, or any part of it (except in the case of perishable property, which in his discretion he may dispose of at any time, and receive the proceeds of sale thereof); nor has he power to convert the property, or the proceeds of any sale of perishable property, to the purposes of the trust. Within ten days after the filing of his bond, the assignee must commence the publication (and such publication shall continue at least once a week for four weeks), in some newspaper published in the county, or city and county, where the inventory is filed, of a notice to creditors of the assignor, stating the fact

and date of the assignment, and requiring all persons having claims against the assignor to exhibit them, with the necessary vouchers, and verified by the oath of the creditor, to the assignee, at his place of residence or business, to be specified in the notice; and he shall also, within ten days after the first publication of said notice, mail a copy of such notice to each creditor whose name is given in the instrument of assignment, at the address therein given. After such notice is given, a copy thereof, with affidavit of due publication and mailing, must be filed with the County Recorder with whom the inventory has been filed, which affidavit shall be *prima facie* evidence of the facts stated therein. At any time, or from time to time, after the expiration of thirty days from the first publication of said notice (*provided*, the same shall also have been mailed as in this section provided), the assignee may, in his discretion, declare and pay dividends to the creditors whose claims have been presented and allowed. No dividend already declared shall be disturbed by reason of claims being subsequently presented and allowed; but the creditor presenting such claim shall be entitled to a dividend equal to the per cent already declared and paid, before any further dividend is made; *provided, however*, that there be assets sufficient for that purpose; *and provided*, that the failure to present such claim shall not have resulted from his own neglect, and he shall attach to such claim a statement, under oath, showing fully why the same was not before presented. When a creditor has a mortgage or pledge of real or personal property of the debtor, or a lien thereon, for securing the payment of a debt owing to him from the debtor, and shall not have conveyed, released, or delivered up such security to the Sheriff, as provided for by section three thousand four hundred and forty-nine of this Code, he shall be admitted as a creditor only for the balance of the debt after deducting the value of such mortgage, pledge, or lien, to be ascertained by agreement between him and the assignee, or by a sale thereof, to be made in such manner as the Superior Court of the county in which the assignment is made shall direct; or the creditor may release or convey his claim to the assignee upon such property, and be admitted to prove his whole debt. If the value of the property exceeds the sum for which it is so held as security, the assignee may release to the creditor the debtor's right of redemption thereon on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon; and in either case the assignee and creditor, respectively, shall execute all deeds and writings necessary or proper to consummate the transaction. If the property is not sold or released, and delivered up, the creditor shall not be allowed to prove any part of his debt.

CHAPTER XCV.

*An Act to amend an Act entitled "An Act to provide for the formation, government, operation, and dissolution of sanitary districts in any part of the State, for the construction of sewers, and other sanitary purposes; the acquisition of property thereby; the calling and conducting of elections in such districts; the assessment, levy, collection, custody, and disbursement of taxes therein; the issuance and disposal of the bonds thereof, and the determination of their validity, and making provision for the payment of such bonds, and the disposal of their proceeds," approved March 31, 1891, amended March 9, 1893.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The title of the above entitled Act is amended to read as follows: "An Act to provide for the formation, government, operation, and dissolution of sanitary districts in any part of the State, for the construction of sewers, and other sanitary purposes; the acquisition of property thereby; the calling and conducting of elections in such districts; the assessment, levy, collection, custody, and disbursement of taxes therein; the issuance and disposal of the bonds thereof, and the determination of their validity, and making provision for the payment of such bonds, and the disposal of their proceeds, and for empowering Sanitary Boards to provide in other respects for the good order and welfare of sanitary districts."

SEC. 2. Section five (5) is amended to read as follows:

Section 5. Every sanitary district formed under the provisions of this Act shall have power to have and use a common seal, alterable at the pleasure of the Sanitary Board; to sue and be sued by its name; to construct and maintain, and keep clean such sewers and drains as in the judgment of the Sanitary Board shall be necessary or proper, and for this purpose to acquire by purchase, gift, devise, condemnation proceedings, or otherwise, such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the Sanitary Board shall be necessary or proper, and to pay for and hold the same; to make and accept any and all contracts, deeds, releases, and documents of any kind which, in the judgment of the Sanitary Board, shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to assess, levy, and collect taxes to pay the principal and interest of the same, and the cost of laying and the expense of maintaining any sewer or sewers that may be constructed subsequent to the issuance of said bonds, or any lawful claims against said district, and the running expenses of the district; to employ all necessary agents and assistants, and pay the same; to lay

its sewers and drains in any public street or road of the county, and for this purpose enter upon the same and make all necessary and proper excavations, restoring the same to proper condition; but in case such street or road shall be in an incorporated city or town, the consent of the lawful authorities thereof shall first be obtained; to make and enforce all necessary and proper regulations for the removal of garbage, and the cleanliness of the roads and streets of the district, and for the purpose of guarding against the spread of contagious and infectious diseases, and for the isolation of persons and houses affected with such diseases, and for the notification of the other inhabitants of the existence thereof, and all other sanitary regulations not in conflict with the Constitution and laws of the State; to make and enforce all necessary and proper regulations for suppressing disorderly and disreputable resorts, and houses of ill-fame within the district, and to determine the qualification of persons authorized to sell liquors at retail, and from and after the passage of this Act no license to keep a saloon, or sell liquors at retail, shall take effect or be operative within any sanitary district unless the same be approved by the Sanitary Board of the district; to impose fines, penalties, and forfeitures for any and all violations of its regulations or orders, and to fix the penalty thereof by fine or imprisonment, or both; but no such fine shall exceed the sum of one hundred dollars, and no such imprisonment shall exceed one month; to call, hold, and conduct all elections necessary or proper after the formation of the district; to prescribe, by order, the time, mode, and manner of assessing, levying, and collecting taxes for sanitary purposes, except as otherwise provided herein; to compel all residents and property owners within the district to connect their houses and habitations with the street sewers and drains; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers, or the purpose for which it was formed.

SEC. 3. This Act shall take effect immediately.

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## CHAPTER XCVIII.

*An Act to amend section one thousand two hundred and thirty-eight of the Code of Civil Procedure of the State of California, concerning the right of eminent domain.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one thousand two hundred and thirty-eight of the Code of Civil Procedure is amended to read as follows:

1238. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

1. Fortifications, magazines, arsenals, navy yards, navy and army stations, lighthouses, range and beacon lights, coast surveys, and all other public uses authorized by the Government of the United States.
2. Public buildings and grounds for the use of the State, and all other public uses authorized by the Legislature of this State.
3. Public buildings and grounds for the use of any county, incorporated city, or city and county, village, town, or school districts; canals, aqueducts, reservoirs, tunnels, flumes, ditches, or pipes for conducting or storing water for the use of the inhabitants of any county, incorporated city, or city and county, village, or town, or for draining any county, incorporated city, or city and county, village, or town; raising the banks of streams, removing obstructions therefrom, and widening and deepening or straightening their channels; roads, streets, and alleys, and all other public uses for the benefit of any county, incorporated city, or city and county, village, or town, or the inhabitants thereof, which may be authorized by the Legislature; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.
4. Wharves, docks, piers, chutes, booms, ferries, bridges, toll-roads, by-roads, plank and turnpike roads; steam, electric, and horse railroads; canals, ditches, dams, pondings, flumes, aqueducts, and pipes, for irrigation, public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on streams not navigable.
5. Roads, tunnels, ditches, flumes, pipes, and dumping places for working mines; also, outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also, an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines.
6. By-roads leading from highways to residences, farms, mines, mills, factories, and buildings for operating machinery, or necessary to reach any property used for public purposes.
7. Telegraph lines.
8. Sewerage of any incorporated city, or city and county, or of any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any public buildings belonging to the State, or to any college or university.
9. Roads for transportation by traction engines or road locomotives.
10. Oil pipe-lines.
11. Roads for logging or lumbering purposes.
12. Canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes, for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for the supplying of mines, quarries, railroads, tramways, mills, and factories with electrical power, and also for the supplying electricity to light or heat mines, quarries, mills,

factories, incorporated cities, cities and counties, villages, or towns, together with lands, buildings, and all other improvements in or upon which to erect, install, place, use, or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

13. Electric light lines.

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## CHAPTER CII.

*An Act to prevent evil-disposed persons from coming upon the grounds of the Whittier State School at Whittier, California, or the Preston School of Industry at Ione.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Any person who shall come upon the grounds of the Whittier State School at Whittier, or Preston School of Industry at Ione, or any of the grounds adjacent thereto where inmates are employed, and leave or deposit where inmates may have access thereto, any guns, pistols, knives, or other deadly weapons, or any explosive of any kind whatsoever, shall be guilty of felony, and upon conviction thereof shall be punished by imprisonment in the State Prison for a term not to exceed three years.

SEC. 2. Any person who shall come upon the grounds of the Whittier State School at Whittier, or Preston School of Industry at Ione, or any of the grounds adjacent thereto where inmates are employed, and leave or deposit where inmates may have access thereto, any whisky, cigars, cigarettes, tobacco, or any other narcotic or stimulant, or who shall furnish to any of the inmates of said school any of the above named articles, shall be guilty of a misdemeanor.

SEC. 3. Any person having been previously convicted of a felony, and who has been confined in either of the State Prisons of this State, who shall come upon the grounds of the Whittier State School, or Preston School of Industry at Ione, or communicate, or attempt to communicate, with any of the inmates of said institution without the consent of the Superintendents, or other officers in charge of said schools, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in either of the State Prisons of this State for not more than three years.

SEC. 4. Any tramp, vagrant, or person who is a known associate of thieves, who shall come upon the grounds of the Whittier State School, or Preston School of Industry at Ione, or grounds adjacent thereto, and communicate with any of the inmates of said schools, without the consent of the Superintendents thereof, or who shall visit or communicate with any paroled pupil of said school with a view to induce him to violate the conditions of his parole, or who shall induce, by threats, intimidation, or persuasion, such paroled pupil to leave the

guardian under whom he has been placed by the Superintendents of the Whittier State School, or Preston School of Ione, shall be guilty of a misdemeanor.

SEC. 5. Any person who shall deliver, or agree to deliver, any literature, letters, or any reading matter whatsoever to any of the pupils of the Whittier State School, or Preston School of Industry at Ione, without the same passing through the hands of the Superintendents of said schools, or other officer designated by him for the purpose of receiving and examining such literature, letters, or reading matter, shall be guilty of a misdemeanor.

This Act shall take effect immediately.

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#### CHAPTER CIV.

*An Act to prevent the sale of imitation or adulterated honey, and to provide a punishment therefor.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Any person who, by himself or an agent, sells or offers for sale, or in any way disposes of, any substance or composition of the appearance of honey, or which in color, consistency, and taste resembles honey, but which is not honey—the natural product of the bee, or a pure extract therefrom—upon the representation or claim or pretense that the same is honey, or a pure extract therefrom, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of one hundred dollars, or by imprisonment in the county jail for three months, or by both such fine and imprisonment.

SEC. 2. For the purposes of this Act “pure extract of honey” is honey extracted from the comb without the addition of any other substances.

SEC. 3. This Act shall take effect and be in force from and after its passage.

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#### CHAPTER CV.

*An Act authorizing the payment of compensation or commission to persons employed by the State Controller and Attorney-General, or by Boards of Supervisors of the different counties, to collect delinquent State and county taxes, and legalizing all payments made for that purpose.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. That all sums heretofore paid by the State to any person for compensation or commission to persons for col-

lecting delinquent State and county taxes in pursuance of an agreement by such persons with the State Controller and Attorney-General for such collections, and all sums heretofore paid by any Board of Supervisors out of the County Treasury as compensation or commissions for collecting such delinquent taxes in pursuance of an agreement by such persons with such Boards of Supervisors, are hereby approved and legalized.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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#### CHAPTER CVI.

*An Act to promote the protection of cities, towns, and municipal corporations from overflow by water and the drainage of the same, and for such purposes authorizing the incurring of indebtedness and the issuance of bonds therefor by the same, and providing for the disposition of the proceeds of such bonds, and for the supervision of the protective and other works.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Any city, town, or municipal corporation incorporated under the laws of this State may, by procedure herein-after prescribed, incur indebtedness and liability, although in excess of the income and revenue by it provided for the current fiscal year, but not so that the aggregate funded indebtedness thereof shall exceed six per cent of the assessed value of all the real and personal property in the municipality, for the purpose of protecting such city, town, or municipal corporation from overflow by water, and for the purpose of draining such city, town, or municipal corporation, and for the purpose of securing an outlet for such overflow water and drainage, or for any part of said purposes, whether by means of canals, ditches, levees, dikes, embankments, dams, and machinery and other like appropriate or ancillary means or works, or any of the same, whether situated within or without the territorial limits of such city, town, or municipal corporation.

SEC. 2. The procedure mentioned in section one aforesaid shall be as follows, to wit: The City Council or legislative body of such city, town, or municipal corporation shall, first, have made by some competent person general plans and estimates of the cost of such canals, ditches, levees, dikes, embankments, dams, machinery, and other means or works as may be contemplated, which general plans and estimates shall, after adoption, be filed in the office of the Clerk of such municipality, and which general plans shall be substantially adhered to thereafter in proceedings under this Act. Said City Council or legislative body shall, secondly, after the filing of such general plans and estimates, and by resolution

or ordinance passed at a regular meeting by a vote of two thirds of all its members and approved by the executive of the municipality, determine; if so advised, that the public good demands the construction, acquisition, and completion, or either, of canals, ditches, levees, dikes, embankments, dams, machinery, and other like appropriate or ancillary means, or works, or any of the same, for any or all of the purposes mentioned in section one aforesaid; and shall further, by the same resolution or ordinance, determine, if so advised, that the cost of the same will be too great to be paid out of the ordinary income or revenue of the municipality; and such resolution or ordinance shall, after its passage and approval, be published as hereinafter prescribed. Said City Council or legislative body shall, within one month after the publication aforesaid, and by resolution or ordinance passed at a regular meeting by a vote of two thirds of all its members, and approved by the executive of the municipality, call a special election, and submit to the qualified voters of such city, town, or municipal corporation the proposition to incur a debt for any or all of the purposes mentioned in section one aforesaid, and which have been as aforesaid determined to be demanded for the public good. The resolution or ordinance calling such special election shall specify the purpose for which the indebtedness is proposed to be incurred, the estimated cost of the things proposed, that bonds of the municipality will issue in the amount of such estimated cost, the number and character of such bonds, the rate of interest to be paid, and the amount of the tax levy for each year during the outstanding of such bonds to be made for their payment. Such last named resolution or ordinance shall be published as hereinafter prescribed. Such City Council or legislative body shall cause to be published, after the publication last named and prior to the day of holding such special election, a notice of the same, which notice shall set forth substantially all the matters contained in the aforesaid resolution or ordinance calling such special election.

SEC. 3. Every publication hereinbefore mentioned or required shall be in some newspaper published in such city, town, or municipal corporation; if in a daily paper, in at least ten issues thereof, and if in a weekly paper in at least two issues thereof; and no publication shall be deemed to have begun until any one required preceding the same shall have been completed.

SEC. 4. Such special elections shall be held in the manner provided by law for holding elections in such city, town, or municipal corporation.

SEC. 5. It shall require the votes of two thirds of all the voters voting at such special election to authorize the incurring of any indebtedness or the issuance of any bonds under this Act. If two thirds of all the votes cast at such special election be in favor of the proposition submitted, the City Council or legislative body may, by ordinance reciting the result of said election, provide for the issuance of the proposed bonds and any matter incidental thereto.

SEC. 6. All municipal bonds issued under this Act shall be of the kind known as serials, and of such denominations as the City Council or legislative body may determine; *provided*, that no bond shall be for less than one hundred dollars nor for more than one thousand dollars, and that not less than one fortieth part of the whole indebtedness evidenced by the whole of the issue of such bonds shall be, by the terms of such bonds, made payable each and every year. Each bond shall be made payable either in gold coin or other lawful money of the United States as may be expressed in such bond, on a day and at a place designated therein, with interest at the rate specified therein, which rate shall not exceed seven per cent per annum, to be fixed by such City Council or legislative body. Said place of payment shall be either at the office of the Treasurer of the municipality, or at some designated bank in San Francisco, Chicago, or New York. Said bonds shall be executed on the part of such municipality by the Mayor or other executive thereof, and by the Treasurer thereof, and countersigned by the Clerk of the municipality. The interest coupons shall be numbered consecutively and signed by the Treasurer.

SEC. 7. Any of such bonds may be issued by the City Council or legislative body of such city, town, or municipal corporation, and by the same sold, at not less than their face value; and the proceeds of such sale shall be deposited in the municipal treasury to the credit of a designated fund and be applied exclusively to the purposes and objects for which, as aforesaid, the electors have voted to incur indebtedness or liability, until such purposes and objects shall have been accomplished, after which, the surplus, if any, may be transferred to the General Fund of the municipality.

SEC. 8. Such City Council or legislative body shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually, each year, for the term of forty years, a tax sufficient to pay the annual interest on such bonds and also one fortieth part of the aggregate amount of such indebtedness so incurred. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected.

SEC. 9. The City Council or legislative body of every city, town, or municipal corporation wherein or for which any public works or improvements are being had or constructed for the purposes hereinbefore specified, and for which indebtedness has been incurred under the provisions of this Act, shall have power to make all needful rules and regulations for acquisition, construction, and completion of such works and improvements; to appoint all needful agents, superintendents, and engineers to supervise and construct the same, and shall have power in all lawful ways to protect and preserve the rights and interests of the municipality in respect thereof.

SEC. 10. All contracts as to said works and improvements shall be let, in such parcels as the City Council or legislative body may determine, to the lowest responsible bidder, after notice given for at least ten days by publication in one or more newspapers published in the municipality, inviting sealed proposals. Security or bonds may be required in order to guarantee good faith in bidding and in the performance of contracts, or either, in such amount as such Council or legislative body may determine, and such Council or legislative body may reject any or all bids.

SEC. 11. The City Council or legislative body of the municipality may, by resolution, if it deem the same necessary, require the Treasurer of the municipality to give additional bonds for the safe custody and care of public funds derived under this Act.

SEC. 12. The provisions of this Act are intended to be paramount and controlling as to all matters provided for therein and as to all questions arising in or out of procedure thereunder.

SEC. 13. This Act shall take effect from and after the time of its passage.

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## CHAPTER CVII.

*An Act authorizing the Judges of the Superior Court in all counties, and cities and counties, having a population of two hundred thousand inhabitants and over, to appoint a Secretary.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. In all counties, and cities and counties, having a population of two hundred thousand inhabitants and over, the Judges of the Superior Court in such counties, and cities and counties, may appoint a Secretary, who shall receive a salary of one hundred and fifty (\$150) dollars per month, and hold office at their pleasure, and shall perform such duties as may be required of him by the Court or the Judges thereof. Said salary shall be audited, allowed, and paid out of the General Fund of such counties, and cities and counties.

SEC. 2. This Act shall take effect from and after its passage.

## CHAPTER CVIII.

*An Act to amend section seven hundred and twenty-six of the Code of Civil Procedure, to provide for the making of deeds on foreclosure of mortgages.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred and twenty-six of the Code of Civil Procedure is amended to read as follows:

726. There can be but one action for the recovery of any debt, or the enforcement of any right secured by mortgage upon real estate or personal property, which action must be in accordance with the provisions of this chapter. In such action the Court may, by its judgment, direct a sale of the incumbered property (or so much thereof as may be necessary), and the application of the proceeds of the sale to the payment of the costs of Court, and the expenses of the sale, and the amount due plaintiff. The Court may, by its judgment, or at any time after judgment, appoint a commissioner to sell the incumbered property. If it appear from the Sheriff's return, or from the commissioner's report, that the proceeds are insufficient, and a balance still remains due, judgment can then be docketed for such balance against the defendant or defendants personally liable for the debt, and it becomes a lien on the real estate of such judgment debtor, as in other cases on which execution may be issued. No person holding a conveyance from or under the mortgagor of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been a party to the action. If the Court appoint a commissioner for the sale of the property, he shall sell it in the manner provided by law for the sale of like property by the Sheriff upon execution; and the provisions of chapter one, title nine, part two, of the Code of Civil Procedure, are hereby made applicable to sales made by such commissioners, and the powers therein given and the duties therein imposed on Sheriffs are extended to such commissioners. In the event of the death, or absence from the State, or other disability or disqualification of the commissioner so appointed to sell incumbered property, the Court may, after the time for redemption has expired, appoint an elisor to make the deed or deeds due to the purchaser or purchasers, or his or their assigns, of the property so sold by said commissioner.

SEC. 2. This Act shall be in force and take effect immediately from and after its passage.

## CHAPTER CIX.

*An Act to amend an Act entitled "An Act to form agricultural districts, to provide for the formation of agricultural associations therein, and for the management and control of the same by the State, and to repeal so much of an Act entitled 'An Act to form agricultural districts, to provide for the formation of agricultural associations therein, and for the management and control of the same by the State,' approved March 20, 1891, by amending sections one, eleven, and twelve," approved March 23, 1893, by amending section one thereof.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one of said Act is hereby amended to read as follows:

Section 1. The several counties of this State are divided and classified into agricultural districts, and numbered as follows, to wit:

The counties of San Francisco and Alameda shall constitute Agricultural District Number One.

The county of San Joaquin shall constitute Agricultural District Number Two.

The county of Butte shall constitute Agricultural District Number Three.

The counties of Sonoma and Marin shall constitute Agricultural District Number Four.

The counties of San Mateo and Santa Clara shall constitute Agricultural District Number Five.

The county of Los Angeles shall constitute Agricultural District Number Six.

The county of Monterey shall constitute Agricultural District Number Seven.

The county of El Dorado shall constitute Agricultural District Number Eight.

The county of Humboldt shall constitute Agricultural District Number Nine.

The counties of Siskiyou and Trinity shall constitute Agricultural District Number Ten.

The county of Plumas shall constitute Agricultural District Number Eleven.

The counties of Lake and Mendocino shall constitute Agricultural District Number Twelve.

The counties of Sutter and Yuba shall constitute Agricultural District Number Thirteen.

The county of Santa Cruz, save and except the part thereof southeast of the line beginning at a point where the Aptos Creek empties into the bay of Monterey, and extending directly northeast to the boundary line of Santa Clara County, shall constitute Agricultural District Number Fourteen.

The county of Kern shall constitute Agricultural District Number Fifteen.

The county of San Luis Obispo shall constitute Agricultural District Number Sixteen.

The county of Nevada shall constitute Agricultural District Number Seventeen.

The counties of Mono, Inyo, and Alpine shall constitute Agricultural District Number Eighteen.

All that portion of Santa Barbara County lying east of the Gaviota and south of the Santa Ynez Mountains shall constitute Agricultural District Number Nineteen.

The county of Placer shall constitute Agricultural District Number Twenty.

The county of Fresno shall constitute Agricultural District Number Twenty-one.

The county of San Diego shall constitute Agricultural District Number Twenty-two.

The county of Contra Costa shall constitute Agricultural District Number Twenty-three.

All that part of Santa Cruz County southeast of a line beginning at a point where the Aptos Creek empties into the bay of Monterey, and extending in a direct line northeast to the boundary line of Santa Clara County, shall constitute Agricultural District Number Twenty-four.

The county of Napa shall constitute Agricultural District Number Twenty-five.

The counties of Sacramento and Amador shall constitute Agricultural District Number Twenty-six.

The county of Shasta shall constitute Agricultural District Number Twenty-seven.

The county of San Bernardino shall constitute Agricultural District Number Twenty-eight.

The county of Tuolumne shall constitute Agricultural District Number Twenty-nine.

The county of Tehama shall constitute Agricultural District Number Thirty.

The county of Ventura shall constitute Agricultural District Number Thirty-one.

The county of Orange shall constitute Agricultural District Number Thirty-two.

The county of San Benito shall constitute Agricultural District Number Thirty-three.

The county of Lassen shall constitute Agricultural District Number Thirty-four.

The counties of Merced and Mariposa shall constitute Agricultural District Number Thirty-five.

The county of Solano shall constitute Agricultural District Number Thirty-six.

All that portion of Santa Barbara County not included in Agricultural District Number Nineteen shall constitute Agricultural District Number Thirty-seven.

The county of Stanislaus shall constitute Agricultural District Number Thirty-eight.

The county of Calaveras shall constitute Agricultural District Number Thirty-nine.

The counties of Yolo and Colusa shall constitute Agricultural District Number Forty.

The county of Del Norte shall constitute Agricultural District Number Forty-one.

The county of Glenn shall constitute Agricultural District Number Forty-two.

The county of Tulare shall constitute Agricultural District Number Forty-three.

The county of Modoc shall constitute Agricultural District Number Forty-four.

The county of Sierra shall constitute Agricultural District Number Forty-five.

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## CHAPTER CXI.

*An Act to amend an Act entitled "An Act creating a Board of Commissioners of the Building and Loan Associations, and prescribing their duties and powers," approved March 23, 1893.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two of said Act is amended to read as follows:

Section 2. The Commissioners shall each receive a salary of twenty-four hundred dollars per annum and necessary traveling expenses, not to exceed for the two Commissioners and their Secretary the sum of seven hundred dollars per annum. Said Commissioners are hereby authorized to appoint a Secretary, at a salary not to exceed twelve hundred dollars per annum, who shall have power to examine the books and affairs of the associations, the same as the Commissioners. All said salaries and traveling expenses shall be audited by the State Controller, and paid in the same manner as the salaries of other State officers.

SEC. 2. Section three of said Act is amended to read as follows:

Section 3. The Commissioners shall have their office in San Francisco, which office shall be kept open for business every business day, and during such hours as are commonly observed by the banks of that city as banking hours. They shall procure rooms for their office at a monthly rental not exceeding forty dollars. They may also provide fuel, stationery, printing, and other necessary conveniences connected with their office, not to exceed an aggregate cost of four hundred dollars per annum. All expenses authorized in this section shall be audited and paid in the same manner as the salary of the Commissioners.

SEC. 3. Section four of said Act is amended to read as follows:

Section 4. The Commissioners, before entering upon the duties of their office, must each execute an official bond in the sum of five thousand dollars, and take the oath of office as prescribed by the Political Code for State officers in general. The Secretary appointed by said Commissioners shall execute a bond in the sum of two thousand dollars, and take the oath of office as prescribed by said Political Code.

Sec. 4. Section five of said Act is amended to read as follows:

Section 5. The duties of the Commissioners of Building and Loan Associations shall be to furnish all corporations legally authorized to transact the business of a Building and Loan Association within this State a license authorizing them to transact the business of a Building and Loan Association for one year from the date of said license; to receive and place on file in their office the annual reports required to be made by Building and Loan Associations by this Act; to supply each association with blank forms and such statements as the Commissioners may require; to make, on or before the first day of October of each year, a tabulated report to the Governor of this State, showing the condition of all institutions examined by them, with such recommendations as they may deem proper, accompanied by a detailed statement, verified by oath, of all moneys received and expended by them since their last report.

Sec. 5. Section seven of said Act is amended to read as follows:

Section 7. To facilitate the examinations of the Commissioners, as specified in the foregoing section, every association shall keep a book of records, written in ink, showing the apprised values of the real estate security held in connection with each loan, and signed in each case by the appraiser or officer or committee of the association making such estimate value. The Commissioners shall have power to order a re-valuation of the securities of any Building and Loan Association when they deem it necessary, and may, for that purpose, appoint local appraisers at the expense of such association, the total expense of such appraisement not to exceed two dollars and fifty cents for each property examined and appraised. Each appraiser shall make a sworn report to the Commissioners of the appraised values of all property examined.

Sec. 6. Section fifteen of said Act is hereby amended to read as follows:

Section 15. To meet the expenses provided by this Act, every Building and Loan Association, or corporation or association doing business on the building and loan plan, shall pay, in advance, to the Commissioners, its pro rata amount of such expenses, to be determined by an assessment levied on the shares of each of such associations in force on the thirty-first day of December, eighteen hundred and ninety-two, pro rata, according to the par value of such shares; and annually thereafter the said Commissioners shall levy, in a like manner, and collect in advance, a like assessment on the shares of all such associations in force as per report, herein provided for, to be

made to said Commissioners, of the condition at the close of business on December thirty-first of each year; *provided, however,* that no association shall pay less than ten dollars per annum; and all associations hereafter organized shall each pay to the Commissioners for their licenses not less than one dollar per month for the term expiring December thirty-first succeeding, dating from the time of application for license.

SEC. 7. Section seventeen of said Act is hereby amended to read as follows:

Section 17. No association shall transact business in this State without first procuring from the Commissioners of Building and Loan Associations a certificate of authority or license to do so. To procure such authority it must file with the said Commissioners a certified copy of its articles of incorporation, constitution, and by-laws, and all other printed rules and regulations relating to its methods of conducting business, and of all subsequent amendments or changes thereto, and otherwise comply with all requirements of law. No association, after the expiration of the term for which a license has been granted to it by the Commissioners of Building and Loan Associations, shall continue to transact the business of a Building and Loan Association without first procuring from said Commissioners a renewal of such license on the terms provided for in this Act; and any corporation violating this provision shall forfeit the sum of ten dollars per day during the continuance of the offense; and any violation of this section by any officer of such association shall be a misdemeanor. The Commissioners are authorized and empowered to revoke the license of any association under their supervision, the solvency whereof is imperiled by losses or irregularities; and the Commissioners immediately upon revoking such license shall report the facts to the Attorney-General, who shall thereupon take such proceedings as is provided by section nine of this Act.

SEC. 8. Section eighteen of said Act is hereby amended to read as follows:

Section 18. Every Building and Loan Association doing business in this State shall, once in every year, to wit, within thirty days after the expiration of its annual fiscal term, make a report, in writing, to the Commissioners of Building and Loan Associations, verified by the oath of its President and Secretary, showing accurately the financial condition of such association at the close of said term. The report shall be in such form as the Commissioners shall prescribe, upon blanks by them furnished for that purpose, and shall specify the following particulars, namely: Name of the corporation, place where located, authorized capital stock, amount of stock paid in, the names of the directors, the amount of capital stock held by each, the amount due to shareholders, the amount and character of all other liabilities, cash on hand, and the number and value of shares in each and every series of stock issued by the association. All money received or disbursed by such association shall be duly accounted for. Any association failing to file the annual report within the time specified herein, shall be sub-

ject to a penalty of ten dollars per day for each and every day such report shall be delayed or withheld.

SEC. 9. Section twenty of said Act is hereby amended to read as follows:

Section 20. The name "Building and Loan Association," and all reference to the same as "association" or "associations," as used in this Act, shall include all corporations, societies, or organizations, investment companies, or associations, whether organized in this State or represented by agents, doing a savings and loan or investment business, and which are not under the direct supervision of the Bank Commissioners or the Insurance Commissioner, and whether issuing certificates of stock which mature at a time fixed in advance or not, and shall also include any association or company which is based on the plan of Building and Loan Associations, and which contains features similar to such associations; and said Commissioners are hereby vested with the power of determining whether such association or associations contain such features as are based on plans similar to those of Building and Loan Associations, and whether they properly come within the purview of this Act.

This Act shall take effect from and after its passage.

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## CHAPTER CXV.

*An Act to create an Exempt Firemen's Relief Fund in the several counties, cities and counties, cities, and towns of the State, and relating to the enrollment, formation into fire companies, and services as firemen of such exempt firemen.*

[Approved March 28, 1896.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Mayor, the Chairman of the Board of Supervisors, or other governing authority of any city and county, city, or county, or town of this State in which an incorporated exempt fire company exists, is authorized, empowered, and required, within thirty days after this Act takes effect, or as soon thereafter as practicable, and as often as shall be necessary, to appoint five citizens, who are exempt firemen, who shall constitute the Board of Trustees of the Exempt Firemen's Relief Fund, to provide for the disbursement of said fund, and to ascertain and determine the beneficiaries thereof, as herein-after directed. Each Trustee shall hold office for the term of four years from his appointment, and until the appointment and qualification of his successor. All vacancies from whatever cause shall be filled by the officer making the appointment. Each Trustee shall qualify by taking the constitutional oath of office.

SEC. 2. They shall organize as such Board by choosing one of their number as President and one of their number as Secre-

tary. The office of Trustee, and of President and Secretary of said Board, is honorary, and they shall receive no salary or compensation therefor. A majority of members of said Board shall constitute a quorum and have power to transact business. The Treasurer of the county, city and county, city, or town shall be the ex officio Treasurer of said fund, without extra salary or compensation therefor. Such Board shall have charge of and administer said fund, and order payments therefrom, in pursuance of the provisions of this Act. They shall report to the Board of Supervisors or other governing authority of the county, city and county, city, or town, when and as often as required, the condition of said fund, and the receipts and disbursements on account of the same, and such other information as may be demanded. The Board shall keep a record and full minutes of their acts and proceedings.

SEC. 3. The Board of Trustees of the Exempt Firemen's Relief Fund shall enroll every exempt fireman who has received, or may hereafter receive, a certificate under the laws of this State that he is an exempt fireman, and who is a resident of the county, city and county, city, or town, and who desires to avail himself of the benefits of this Act, and to render the services herein mentioned. Such enrolled exempt fireman may, in cases of great public emergency, be assigned to and shall perform such duty as firemen, under the direction and control of the chief, or any of his assistants, of the fire department, as may be from time to time prescribed by ordinance of such Board of Supervisors or such other governing authority; and said enrolled exempt firemen shall be formed into one or more companies, and in such manner as such Board of Supervisors or such other governing authority may from time to time ordain; and such persons shall render all such services without salary or compensation, but may receive relief as provided herein.

SEC. 4. The Board of Supervisors or other governing authority of any county, city and county, city, or town, in which such incorporated exempt fire company exists, shall, for the purposes of said fund, annually set apart from the General Fund in the treasury of the county, city and county, city, or town, or from any other fund therein which is not devoted exclusively to some other purpose, and direct the payment annually into said fund of a sum of money not exceeding twelve thousand dollars; and in case a sum less than twelve thousand dollars should in any instance be directed to be paid into said fund, said Board or other governing body may from time to time so set apart and direct the payment into said fund of sums of money; *provided*, the aggregate of sums paid into said fund shall not exceed twelve thousand dollars a year. Moneys so set apart cannot be diverted thereafter from said fund by the Board of Supervisors or other governing authority.

SEC. 5. Said Exempt Firemen's Relief Fund shall be applied to the relief of such enrolled exempt firemen who, after their enrollment as herein provided, shall become disabled from injury, sickness, or the infirmities of age to earn a livelihood, and said Board shall grant relief from time to time to

such enrolled member during the disability as it deems just. The decision or judgment of said Board as to the fact of ability or disability, or its duration, or the amount of relief at any time to be granted, shall be binding and final as against the claimant of relief. Said fund shall be used for such purposes, and to pay the necessary expenses of stationery for said Board, and for no other purpose. The relief granted shall not exceed twenty-five dollars per month to each enrolled member so disabled.

SEC. 6. Such Board of Trustees is authorized to allow and issue orders or warrants, signed by the President and Secretary, for payment of moneys out of said Exempt Firemen's Relief Fund, for any of the purposes herein stated; and the auditing officer of the county, city and county, city, or town is authorized and required to audit, and the Treasurer thereof to pay out of said fund, any and all orders or warrants so allowed and issued by said Board; *provided*, that the aggregate of said orders shall not exceed the sum of twelve thousand dollars per annum.

SEC. 7. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CXVII.

*An Act to amend section five hundred and thirty-nine of the Political Code of the State of California, relative to the engrossment and enrollment of bills and other documents, approved March 31, 1891.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section five hundred and thirty-nine of the Political Code is hereby amended to read as follows:

539. All bills and other documents ordered engrossed by either house of the Legislature shall be delivered by the Secretary of the Senate or Chief Clerk of the House, as the case may be, to the Engrossing Clerk of the house ordering the engrossment, who shall deliver such bills or other documents, without delay, in the order of their receipt, to the State Printer, who shall receipt for the same, and without delay engross (print) the same in the order so received by him, and deliver such engrossed bill or other documents, with the original thereof, to the Engrossing Clerk from whom he receives the same, who shall carefully compare the engrossed copy with the original, and, if correctly engrossed, report the same back, with the original, to the Engrossing Committee of the house from which he received it. All bills and other documents that have been printed shall be considered engrossed, if no amendments have been made after being printed, but the original bill or document shall be delivered to the Engrossing Clerk of the respective houses where same originated, and he shall compare the original bill, or other document with the printed bill or other document,

and forthwith deliver them to the Committee on Engrossment for return to the house in the same manner as engrossed bills. Such bills or other documents shall have a separate order of comparison from the engrossed bills. And all bills and other documents required to be enrolled by order of either house, shall be delivered by the Secretary of the Senate or Chief Clerk of the House, as the case may be; to the Enrolling Clerk of the house ordering such enrollment, who shall deliver such bills or other documents, without delay, in the order of their receipt, to the State Printer, who shall receipt for the same, and who shall, without delay, correctly enroll (print) the same, in the order so received by him, and when enrolled he shall deliver such enrolled bills or other documents, with the original thereof, to the Enrolling Clerk from whom he received the same, who shall carefully compare such enrolled copy with the original, and if correctly enrolled, he shall report the same back, with the original, to the Enrolling Committee of the house from which he received it.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER CXXII.

*An Act to amend section six of an Act entitled "An Act to amend an Act entitled 'An Act to provide for Police Courts in cities having thirty thousand and under one hundred thousand inhabitants, and to provide for officers thereof,' approved March 18, 1885, 'and to provide for Clerks of Police Courts in cities of twenty-six thousand and under fifty thousand inhabitants,' approved March 31, 1891, 'and to provide for Clerks of Police Courts in cities having a population of more than thirty thousand and not exceeding one hundred thousand inhabitants.'"*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section six of an Act to amend an Act entitled "An Act to provide for Police Courts in cities having thirty thousand and under one hundred thousand inhabitants, and to provide for officers thereof," approved March eighteenth, eighteen hundred and eighty-five, "and to provide for Clerks of Police Courts in cities of twenty-six thousand and under fifty thousand inhabitants," approved March thirty-first, eighteen hundred and ninety-one, is hereby amended so as to read as follows:

Section 6. The Police Courts in all cities having more than thirty thousand and not exceeding one hundred thousand inhabitants, shall have a Clerk for each of the Judges of said Courts, who shall be appointed by the Judge of the said Court presiding in the department thereof in which the said Clerk is to act, who shall hold office for the period of two years from the date of his appointment. Each of the said Clerks shall receive

an annual salary of one thousand five hundred dollars a year, payable monthly out of the treasury of said city, which salary shall be the full compensation for all services rendered by him. Each of the said Clerks shall keep a record of the proceedings of, and issue all processes ordered by, the City Justices, or either of them, or by said Police Court, and receive and pay into the City Treasury all fines imposed by said Court. They shall also each month render to the City Council an exact and detailed account, upon oath, of all fines imposed and collected, and of all fines imposed and uncollected, since their last reports. They shall prepare bonds, justify bail when the amount has been fixed by either of the said Justices or said Court, in cases not exceeding one hundred dollars, and may administer and certify oaths. The Clerks shall remain at the court-rooms of the said Court during the business hours, and during such reasonable times thereafter as may be necessary for discharging their duties. Before receiving their salaries each or any month, each of them shall make and file with the City Auditor an affidavit that he has deposited with the City Treasurer all moneys that have come into his hands belonging to the city. Any violation of this provision shall be a misdemeanor. Each of said Clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the Mayor, conditioned for the faithful discharge of the duties of his office.

Sec. 2. This Act shall take effect from and after its passage.

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## CHAPTER CXXV.

*An Act to provide for the disincorporation of municipal corporations of the sixth class.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A municipal corporation of the sixth class may disincorporate after proceedings had as required in this Act. The Council, the Board of Trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than one fourth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether such municipal corporation shall disincorporate. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed or published in such corporation, or if there is no newspaper published in said corporation, then in some newspaper published in the county in which said corporation is situated, for a period of thirty days prior to such election. Said notice shall state that the question of disincorporating said corporation will be

submitted to the legal voters of the same at the time appointed for such election, and the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the cross, as provided by law, after the words "For Disincorporation—Yes," or "For Disincorporation—No." Such legislative body shall also designate in said notice the place or places at which the polls will be opened in said municipal corporation; and shall also appoint and designate in such notice the names of the officers of election. The vote at said election shall be taken, canvassed, and returned in the same manner as in other municipal elections. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. If it be found by the canvass of said votes that a majority of the votes cast at said election were against said disincorporation, such legislative body shall declare the petition for disincorporation denied; in which case no new election shall be held on the question of disincorporating the corporation involved in said petition and vote until after the expiration of one year from the date of the election so held. In case it shall appear from said canvass that a majority of the votes cast were in favor of disincorporation, said legislative body shall, under their hands, make and file in their office, and cause to be entered upon their record of proceedings, an order that the petition for such disincorporation be granted, and declaring that such corporation be disincorporated; said order to take effect at the time hereinafter provided. Said legislative body shall, in case said corporation is so disincorporated, forthwith cause their Clerk, or other officer performing the duties of Clerk, by an order entered in their minutes, to make and transmit to the Secretary of State and Board of Supervisors of the county in which said corporation is situated a certified copy and abstract of the notice of election hereinbefore provided for, the whole number of electors voting for said disincorporation, and the number of electors voting against said disincorporation. Thirty days from and after the holding of the election, in case a majority of the said votes were cast in favor of said disincorporation, said municipal corporation shall be forever disincorporated. Said legislative body shall forthwith, after ascertaining by said canvass that said disincorporation has been carried, determine the amount of the indebtedness of said municipal corporation, the amount of money in the treasury thereof, and the amount of any tax levy made by said corporation unpaid or not due, and all other indebtedness due or coming due to said corporation, and within thirty days from the date of said election shall transmit a certified statement of said amounts to the Board of Supervisors of the county in which said municipal corporation is situated; and the Treasurer of said corporation shall, before the expiration of said thirty days, turn over to the Treasurer of said county all moneys of said municipal corporation in his possession, and said County Treasurer shall place said moneys in a special fund, to be drawn upon as hereinafter provided for. Upon the disincorporation of said municipal corporation, every public officer

of said corporation shall immediately turn over to the Board of Supervisors of the county in which said corporation is situated, all public property of every nature and description in their possession; *provided, however,* that all Court records of the Recorder's Court of said municipal corporation shall be retained by said Recorder as Justice of the Peace of the township, and as such Justice of the Peace he shall have authority to execute and complete all unfinished business standing on the same. Nothing contained in this Act shall be held to relieve said municipal corporation, or the territory included within it, from any liability for any debt contracted by such municipal corporation prior to its disincorporation. All warrants for said indebtedness shall be drawn by the Board of Supervisors of the county in which said municipal corporation is situated, on the fund hereinabove provided for in the County Treasury. If at the time of the said disincorporation, a tax shall have been levied by said municipal corporation, and remains uncollected, it shall be the duty of the Tax Collector of the county in which said municipal corporation was situated to collect said tax when due, and pay the same into the County Treasury to the credit of the fund hereinabove provided for. If at any time after the disincorporation of any such municipal corporation, it should be found that there is not sufficient money in the Treasury to the credit of the fund hereinabove provided for, with which to pay any indebtedness of said municipal corporation, the Board of Supervisors of said county shall have the power, and it shall be their duty to levy, and there shall be collected from the territory formerly included within said municipal corporation, a tax or taxes sufficient in amount to pay the said indebtedness, or indebtednesses of said municipal corporation; such tax or taxes, assessment, and collection shall be made in the same manner and at the same time that other taxes of said county are levied and collected, and shall be an additional tax upon the property included within said territory for the payment of said debts. If, after payment of the debts of said municipal corporation, there shall remain any surplus in the hands of said County Treasurer to the credit of the fund hereinbefore mentioned, the money so remaining shall be transferred to the School Fund of the districts or district covered by said municipal corporation.

SEC. 2. The Board of Supervisors of the county in which any such municipal corporation has been disincorporated, shall have the power, and it shall be their duty, to ascertain the indebtedness of said municipal corporation at the time of its disincorporation, and the amount of money in its treasury and the amount due to it at the said time, if the Board of Trustees or other legislative body of such corporation shall fail or refuse to return to said Board of Supervisors the statement of said amounts as hereinbefore in this Act provided. Said Board of Supervisors shall make provision for the collection of the amounts due to said municipal corporation, and said county shall succeed to and possess all the rights of said municipal corporation in and to said indebtedness, and shall have power to sue for or otherwise collect any such debts, in the name of

the county. All costs and expense of ascertaining the facts hereinbefore mentioned, and all other costs and expense incurred by the Board of Supervisors in the execution of the powers and duties of said Board of Supervisors, provided for in this Act, shall be paid out of the special fund in said County Treasury hereinbefore in this Act provided for.

SEC. 3. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CXXVI.

*An Act to amend section three hundred and twenty-four of an Act entitled "An Act to establish a Civil Code," approved March 21, 1872, relating to the transfer of shares of stock of corporations, and making the shares of corporations engaged in certain business transferable as appurtenances to real property.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section three hundred and twenty-four of an Act entitled "An Act to establish a Civil Code," approved March twenty-first, eighteen hundred and seventy-two, is hereby amended to read as follows:

324. Whenever the capital stock of any corporation is divided into shares, and certificates therefor are issued, such shares of stock, except as hereinafter provided, are personal property, and may be transferred by indorsement by the signature of the proprietor, his agent, attorney, or legal representative, and the delivery of the certificate; but such transfer is not valid, except as to the parties thereto, until the same is so entered upon the books of the corporation as to show the names of the parties by whom and to whom transferred, the number of the certificate, the number or designation of the shares, and the date of transfer; *provided, however,* that any corporation organized for, or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes or for domestic use, may in its by-laws provide that water shall only be so sold, distributed, supplied, or delivered to owners of its capital stock, and that such stock shall be appurtenant to certain lands when the same are described in the certificate issued therefor; and when such certificate shall be so issued, and a certified copy of such by-law recorded in the office of the County Recorder in the county where such lands are situated, the shares of stock so located on any land shall only be transferred with said lands, and shall pass as an appurtenance thereto.

## CHAPTER CXXIX.

*An Act amending sections fifty-five, fifty-seven, and sixty-eight of the Civil Code of the State of California, and repealing section seventy-five of said Code.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section fifty-five of the Civil Code of the State of California is hereby amended to read as follows:

55. Marriage is a personal relation arising out of a civil contract, to which the consent of parties capable of making that contract is necessary. Consent alone will not constitute marriage; it must be followed by a solemnization authorized by this Code.

SEC. 2. Section fifty-seven of said Code is hereby amended to read as follows:

57. Consent to marriage and solemnization thereof may be proved under the same general rules of evidence as facts are proved in other cases.

SEC. 3. Section sixty-eight of said Code is hereby amended to read as follows:

68. Marriage must be licensed, solemnized, authenticated, and recorded as provided in this article; but non-compliance with its provisions by other than the parties to a marriage does not invalidate that marriage.

SEC. 4. Section seventy-five of said Code is hereby repealed.

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## CHAPTER CXXXI.

*An Act relating to commitments to the State School at Whittier and to the Preston School of Industry; fixing the authority to examine and commit to such schools with the Superior Court Judges of the counties, and fixing the responsibilities from which commitments are made to the State for maintenance of the persons committed therefrom; providing for the manner of payment thereof, and fixing the responsibility of the parents to the counties from which their children are committed.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Superior Judge of any county, and no other judicial officer, shall have power to examine, discharge, or commit any offender either to the Whittier State School or to the Preston School of Industry; provided, that the Superior Judge shall determine whether or not the parent or guardian of any minor committed to the Whittier State School or to the Pres-

ton School of Industry is able to pay to the county in which the commitment is made for the maintenance of such minor during the term of such commitment; and when the Superior Judge shall determine that said parent or guardian has the ability to pay as aforesaid for the maintenance of such minor during the term of such confinement, the parent or parents or guardian shall pay into the treasury of such county the sum of eleven dollars per month in advance; and in case of the failure to pay the same as herein provided, it shall be the duty of the District Attorney of such county to proceed to collect the amount from such parent, parents, or guardian in the manner that other indebtedness against the county is collected.

SEC. 2. For each and every person hereafter committed to either the Whittier State School or the Preston School of Industry, the county from which the commitment is made shall pay into the State Treasury the sum of one hundred and thirty-two dollars per annum, and at that rate for each fraction of a year.

SEC. 3. It is hereby made the duty of the Clerk of the Superior Court of the county from which such commitment is made, to certify to the County Auditor the name, age, and date of commitment of each person committed by the Superior Judge thereof, and the amount due to the State from the county by reason of such commitments, and before the first day of May and December of each and every year to file with the Treasurer of the county a statement of the number of commitments, with the date thereof, and the amount due from the county by reason of such commitments, to the State Treasurer; and it is further made the duty of the County Treasurer, during the settlement or at the time of the settlement with the State during the month of May and December of each year, to pay to the State Treasurer, through the State Controller, the amount so found to be due to the State by reason of commitments to the State schools as herein provided.

SEC. 4. The Superintendent of the State School at Whittier and the Preston School of Industry are hereby required to transmit to the State Treasurer a statement of all commitments to their respective institutions, showing the name of the person committed, the date of the commitment, and the county from which the commitment is made, and the amount due to the State from the county by reason of such commitments; said statement to be made quarterly, as follows: on or before the first day of January, the first day of April, the first day of July, and the first day of October of each year; and it is hereby made the duty of the Controller of State to add the amounts due to the State from said counties such sum as may be shown to be due by reason of commitments to such schools, as in section two of this Act provided.

SEC. 5. All Acts and parts of Acts in conflict herewith are hereby repealed.

SEC. 6. This Act shall take effect immediately.

## CHAPTER CXXXIII.

*An Act to amend section seventeen hundred and thirty-nine of the Code of Civil Procedure, relating to the account with the County Clerk as to the disbursement of money and property of estates.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seventeen hundred and thirty-nine of the Code of Civil Procedure is hereby amended to read as follows:

1739. Public Administrators are required to account, under oath, and to settle and adjust their accounts relating to the care and disbursement of money or property belonging to estates in their hands, with the County Clerks of their respective counties, on the first Monday in January and July in each year; one copy of said account to be filed with the papers in each of such estates; and they must pay to the County Treasurer any money remaining in their hands of an estate unclaimed, as provided in sections sixteen hundred and ninety-three to sixteen hundred and ninety-six, both inclusive.

SEC. 2. This Act shall take effect from and after its passage.

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## CHAPTER CXXXVII.

*An Act supplemental to an Act entitled "An Act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, providing for the destruction of all or any part of the bonds of any irrigation district remaining unsold after the completion of their irrigation system.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Whenever there remains in the hands of the Board of Directors of any irrigation district organized under the provisions of "An Act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, after the completion of their ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district but not sold, and not necessary to be sold for raising funds for the use of such district, the Board of Directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds or so many of them as they

may deem best, or may submit such proposition at any general election.

SEC. 2. Such election shall be held in the same manner as other elections held under the provisions of said Act. A notice of such election shall be given in the same manner as provided in section fifteen of said Act in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling places as fixed by said Board of Directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of the bonds, otherwise the word "Yes."

SEC. 3. When the vote is canvassed by the Board of Directors and entered of record, if a majority of the votes cast should be found to be in favor of the destruction of such bonds, then the President of the Board, in the presence of a majority of the members of the Board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

SEC. 4. In case any bonds of any irrigation district, remaining unsold after the completion of its irrigation system, shall have been destroyed in pursuance of a vote of a majority of the voters in such district, at an election held substantially in accordance with the provisions of this Act, and prior to its passage, the action of such district in so destroying such bonds is hereby ratified and confirmed.

SEC. 5. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CXXXIX.

*An Act providing for changing the fiscal year of cities in this State operating under a charter framed under section eight, article eleven, of the Constitution.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Any city or municipal corporation within this State, operating under a charter framed under the provisions of section eight, article eleven, of the Constitution, may, by ordinance adopted by a majority of all the members of the Board of Trustees, Common Council, or other legislative body of such city or municipal corporation, change the fiscal year of

such city or municipal corporation to begin at any other time than that fixed by such charter; and may provide sufficient revenue to carry on the business of the city or municipal corporation from the end of the previous fiscal year to the commencement of the fiscal year thus fixed, by adding to the first tax levy made for the new fiscal year a sufficient amount, in addition to the limit in such charter provided, that will raise enough money to pay claims contracted between the ending of the previous fiscal year and the commencement of the new fiscal year. And may also provide by ordinance, passed in the same manner, the time for making the annual tax levy, and the time at which the lien thereon shall attach; and may change the time or times designated in such charter for making the assessment, demand statements of property, preparing the assessment roll, equalizing the assessment, and all other matters relating to the assessment and collection of municipal taxes.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CXLIII.

*An Act for the relief of insolvent debtors, for the protection of creditors, and for the punishment of fraudulent debtors.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

### ARTICLE I.

#### GENERAL SUBJECT OF THE ACT.

SECTION 1. Every insolvent debtor may, upon compliance with the provisions of this Act, be discharged from his debts and liabilities. This Act shall be known and may be cited as the Insolvent Act of eighteen hundred and ninety-five.

### ARTICLE II.

#### VOLUNTARY INSOLVENCY.

SEC. 2. An insolvent debtor, owing debts exceeding in amount the sum of three hundred dollars, may apply by petition to the Superior Court of the county, or city and county, in which he has resided for six months next preceding the filing of his petition, to be discharged from his debts and liabilities. In his petition he shall set forth his place of residence, his inability to pay all his debts in full, his willingness to surrender all his estate and effects for the benefit of his creditors, and his desire to obtain a discharge from his debts and liabilities, and shall annex thereto a schedule and inventory, and valuation, in compliance with the provisions of this Act. The

filing of such petition shall be an act of insolvency, and thereupon such petitioner shall be adjudged an insolvent debtor.

SEC. 3. Said schedule must contain a full and true statement of all his debts and liabilities, exhibiting to the best of his knowledge and belief to whom said debts or liabilities are due, the place of residence of his creditors, and the sum due each; the nature of the indebtedness or demand, whether founded on written security, obligation, contract, or otherwise; the true cause and consideration thereof, and the time and place when and where said indebtedness accrued, and a statement of any existing pledge, lien, mortgage, judgment, or other security for the payment of the same; also, an outline of the facts touching any liability, directly or indirectly, in the nature of any right of action against the insolvent by any one.

SEC. 4. Said inventory must contain an accurate description of all the estate, both real and personal, of the petitioner, including his homestead, if any, and all property exempt by law from execution, and where the same is situated, and all incumbrances thereon; also, an outline of the facts touching any right of action in favor of the insolvent against any one.

SEC. 5. The petition, schedule, and inventory must be verified by the affidavit of the petitioner, annexed thereto, and shall be in form substantially as follows: I, —, do solemnly swear that the schedule and inventory now delivered by me contain a full, perfect, and true discovery of all the estate, real, personal, and mixed, goods and effects, to me in any way belonging; all such debts as are to me owing, or to any person or persons in trust for me, and all securities and contracts, and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me or to my use, or to any other person or persons in trust for me; that the schedule and inventory, respectively, contain a clear outline of the facts touching any known right of action against me by any one, and an outline of the facts touching all rights of action in my favor against any one; that I have no lands, money, stock, or estate, reversion, or expectancy, besides that set forth in my schedule and inventory; that I have in no instance created or acknowledged a debt for a greater sum than I honestly and truly owe; that I have not, directly or indirectly, sold, or otherwise disposed of, or concealed, any part of my property, effects, or contracts; that I have not in any way compounded with my creditors whereby to secure the same, or to receive or to expect any profit or advantage therefrom, or to defraud or deceive any creditor to whom I am indebted in any manner. So help me God.

SEC. 6. Upon receiving and filing such petition, schedule, and inventory, the Court shall make an order declaring the petitioner insolvent, and directing the Sheriff of the county, or city and county, to take possession of all the estate, real and personal, of the debtor, except such as may be by law exempt from execution, and of all his deeds, vouchers, books of account, and papers, and to keep the same safely until the appointment of an assignee. Said order shall further forbid the payment

of any debts and the delivery of any property belonging to such debtor, to him, or for his use, and the transfer of any property by him; and shall further appoint a time and place for a meeting of the creditors, to prove their debts and choose an assignee of the estate, and shall designate a newspaper of general circulation published in the county, or city and county, in which the petition is filed, if there be one, and if there be none, in a newspaper published nearest to such county, or city and county, in which publication of such order shall be made. The time appointed for the election of an assignee shall not be less than eight nor more than ten days from the date of the order of adjudication. Upon the granting of said order, all proceedings against the said insolvent shall be stayed. When a receiver is appointed or an assignee chosen, as provided for in this Act, the Sheriff shall thereupon deliver to such receiver or assignee, as the case may be, all the property and assets of the insolvent which have come into his possession, and shall be allowed and paid as compensation for his services the same expenses and fees as would by law be collectible if the property had been levied upon and safely kept under attachment.

SEC. 7. A copy of said order shall immediately be published by the Clerk of said Court, in the newspaper designated therein, as often as said newspaper is printed before the meeting of creditors, and be served by the Clerk forthwith, by the United States mail, postage prepaid, or personally, on all creditors named in the schedule. There shall be deposited, in addition to the usual cost of commencing such proceedings, a sum of money sufficient to defray the cost of the publication ordered by the Court, and ten cents for each copy, to be mailed to or served on the creditors, which latter sum is hereby constituted the legal fee of the Clerk for the mailing or service required in this section.

*Claims*

SEC. 8. No claim shall be entitled to a vote for the election of an assignee, unless such claim shall be placed on file in the office of the Clerk of the Court in which the proceedings are pending, at least two days prior to the time appointed for the election of an assignee. All claims shall be established by a statement, showing the amount and nature of the claim, and security, if any; such statement to be verified by the claimant, his agent or attorney. Any person interested in the estate of the insolvent may file exceptions to the legality or good faith of any claim, by setting forth specifically, in writing, his interest in the estate and the grounds of his objection to such claim; such specification of exceptions to be verified by the affidavit of the party objecting, his agent or attorney, setting out among other things that such exceptions are not made for the purpose of delay, or otherwise than in good faith in the best interest of said estate. Such exceptions to be filed with the Clerk of the Court at least one day before the time appointed for the election of an assignee; and such exceptions shall be heard and disposed of by the Court, on affidavit or other evidence, in a summary manner, before the election of an assignee. But the decision of the Court upon the excep-

tions as to whether the claimant shall be entitled to vote for an assignee shall not be conclusive upon the right of the party to participate in the assets of the insolvent, the enforcement of such right being subject to the laws of the State touching the establishment of claims against the estates of insolvents in case of dispute. No creditor, or claimant, who holds any mortgage, pledge, or lien of any kind whatever, as security for the payment of his claim, shall be permitted to vote any part of his secured claim in the election of assignee, unless he shall first have the value of such security fixed as provided in section forty-eight of this Act, or surrender to the Sheriff or receiver of the estate of the insolvent, if any receiver, all such property so mortgaged or pledged, or assign such lien to such receiver or Sheriff; such surrender or assignment of security or lien to be for the benefit of all creditors of the estate of the insolvent. The value of such security, if fixed by the Court, shall be so fixed at least one day before the day appointed for the election of an assignee; in which event the claimant may prove his demand, as provided in this section, for any unsecured balance, subject to the same exceptions as all other claims.

### ARTICLE III.

#### INVOLUNTARY INSOLVENCY.

SEC. 9. An adjudication of insolvency may be made on the petition of five or more creditors, residents of this State, whose debts or demands accrued in this State, and amount in the aggregate to not less than five hundred dollars; *provided*, that said creditors, or either of them, have not become creditors by assignment within thirty days prior to the filing of said petition. Such petition must be filed in the Superior Court of the county, or city and county, in which the debtor resides or has his place of business, and must be verified by at least three of the petitioners, setting forth that such person is about to depart from this State, with intent to defraud his creditors; or being absent from the State with such intent, remains absent; or conceals himself to avoid the service of legal process; or conceals, or is removing, any of his property to avoid its being attached or taken on legal process; or being insolvent, has suffered his property to remain under attachment, or legal process, for three days; or has confessed or offered to allow judgment in favor of any creditors; or willfully suffered judgment to be taken against him by default; or has suffered or procured his property to be taken on legal process, with intent to give a preference to one or more of his creditors; or has made any assignment, gift, sale, conveyance, or transfer of his estate, property, rights, or credits, with intent to delay, defraud, or hinder his creditors; or in contemplation of insolvency, has made any payment, gift, grant, sale, conveyance, or transfer of his estate, property, rights, or credits; or has been arrested and held in custody by virtue of any civil process of Court founded on any debt or demand, and such process remains in force, and

not discharged by payment, or otherwise, for a period of three days; or being a merchant or tradesman, has stopped or suspended, and not resumed payment within a period of forty days after the maturity of any written acknowledgment of indebtedness, unless the party holding such acknowledgment has, in writing, waived the right to proceed under this subdivision; or being a bank or banker, agent, broker, factor, or commission merchant, has failed for forty days to pay any moneys deposited with or received by him in a fiduciary capacity, upon demand of payment, excepting savings and loan banks, or associations who loan the money of their stockholders and depositors on real estate, and provide in their by-laws for the repayment of such deposits. The petitioners may, from time to time, amend and correct the petition, so that the same shall conform to the facts, by leave of the Court before which the proceedings are pending, such amendment or amendments to relate back to and be received as if embraced in the original petition; but nothing in this section shall be construed to invalidate any loan of actual value, or the security therefor, made in good faith upon a security taken in good faith on the occasion of the making of such loan. The said petition shall be accompanied by a bond with two sureties in the penal sum of at least five hundred dollars, conditioned that if the debtor should not be declared an insolvent, the petitioners will pay all costs and damages, including a reasonable attorney's fee, that the debtor may sustain by reason of the filing of said petition. The Court may, upon motion, direct the filing of an additional bond with different sureties, when deemed necessary.

SEC. 10. Upon the filing of such creditors' petition, the Court, or a Judge thereof, shall issue an order requiring such debtor to show cause, at a time and place to be fixed by said Court, or Judge, why he should not be adjudged an insolvent debtor, and at the same time, or thereafter, upon good cause shown therefor, said Court, or Judge, may make an order forbidding the payment of any debts and the delivery of any property belonging to such debtor to him or for his use, or the transfer of any property by him.

SEC. 11. A copy of said petition, with a copy of the order to show cause, shall be served on the debtor, in the same manner as is provided by law for the service of summons in civil actions, but such service shall be made at least five days before the time fixed for the hearing; *provided*, that if, for any reason, the service is not made, the order may be renewed, and the time and place of hearing changed by supplemental order of the Court; *provided, however*, that where the debtor or debtors on whom service is to be made reside out of this State; or has departed from the State; or cannot, after due diligence, be found within the State; or conceals himself to avoid the service of the order to show cause, or any other process or orders in the matter; or is a foreign corporation, having no managing or business agent, cashier, or secretary within the State, upon whom service can be made, and such facts are shown to the Court, or a Judge thereof, by affidavit, such Court or Judge thereof shall

make an order that the service of such order, or other process, be made by publication, in the same manner, and with the same effect, as service of summons by publication in ordinary civil actions.

SEC. 12. At the time fixed for the hearing of said order to show cause, or such other time as it may be adjourned to, the debtor may demur to the petition for the same causes as is provided for demurrer in other cases by the Code of Civil Procedure. If the demurrer be overruled, the debtor shall have five days thereafter in which to answer the petition. If the debtor answer the petition, such answer shall contain a specific denial of the material allegations of the petition controverted by him, and shall be verified in the same manner as pleadings in civil actions; and the issues raised thereon may be tried with or without a jury, according to the practice provided by law for the trial of civil actions.

SEC. 13. If the respondent shall make default, or if, after a trial, the issues are found in favor of the petitioners, the Court shall make an order adjudging that said respondent is, and was at the time of filing the petition, an insolvent debtor, and that the debtor was guilty of the acts and things charged in the petition, or such of those acts and charges as the Court may find to be true; and shall require said debtor, within such time as the Court may designate, not to exceed three days, to file in Court the schedule and inventory provided for in sections three and four of this Act, duly verified as required of a petitioning debtor; *provided*, that in the affidavit of the insolvent touching his property and its disposition he shall not be required to swear that he has not made any fraudulent preference, or committed any other act in conflict with the provisions of this Act; but he may do so if he desires. Said order shall further direct the Sheriff of the county, or city and county, where the insolvency petition is filed, or the receiver, if one has been theretofore appointed, to take possession of all the estate, real and personal, of the debtor, except such as may be by law exempt from execution, and of all his deeds, vouchers, books of account, and papers, and to keep the same safely until the appointment of an assignee. Said order shall further forbid the payment of any debts, and the delivery of any property belonging to such debtor, to him, or for his use, and the transfer of any property by him; and shall further appoint a time and place for a meeting of the creditors, to prove their debts, and choose an assignee of the estate, and shall designate a newspaper of general circulation published in the county, or city and county, in which the petition is filed, if there be one, and if there be none, in a newspaper published nearest to such county, or city and county, in which publication of said order shall be made. The time appointed for the election of an assignee shall not be less than eight nor more than ten days from the date of the order of adjudication. Upon granting of said order, all proceedings against the said insolvent shall be stayed. When a receiver is appointed subsequent to adjudication, or an assignee is chosen as provided for in this Act, the

Sheriff shall thereupon deliver to such receiver or assignee, as the case may be, all the property and assets of the insolvent which have come into his possession, and shall be allowed and paid as compensation for his services the same expenses and fees as would by law be collectible if the property had been levied upon and safely kept under attachment.

SEC. 14. A copy of the order provided for in section thirteen of this Act, shall immediately be published by the Clerk of said Court in the newspaper designated therein, as often as such newspaper is printed before the meeting of creditors; and upon the filing, at any time before the date set for such meeting, of the schedule required by said section thirteen, a copy of said order shall be served by the Clerk forthwith, by United States mail, postage prepaid, or personally, on all creditors named in said schedule. If said schedule is not filed prior to the day fixed for the election of an assignee, publication of said order as herein required shall be of itself sufficient notice to the creditors of the time and place appointed for the election of an assignee. No order of adjudication upon creditors' petition shall be entered, unless there be first deposited, in addition to the usual cost of commencing said proceedings, a sum of money sufficient to defray the cost of the publication ordered by the Court, and the further sum of five dollars, which is hereby constituted the legal fee of the Clerk for the mailing or service of notice to creditors required in this section.

SEC. 15. If, upon such hearing or trial, the issues are found in favor of the respondent, the proceedings shall be dismissed, and the respondent shall recover costs from the petitioning creditors in the same manner as on the final judgment in civil actions.

SEC. 16. In all cases where the debtor resides out of this State, or has departed from the State; or cannot, after due diligence, be found within the State; or conceals himself to avoid service of the order to show cause, or any other preliminary process or orders in the matter; or is a foreign corporation having no managing or business agent, cashier, or secretary within the State upon whom service of orders and process can be made, and it therefore becomes necessary to obtain service of process and order to show cause, as provided in section eleven of this Act, then the petitioning creditors, upon submitting the affidavits requisite to procure an order of publication, and presenting a bond in double the amount of the aggregate sum of their claims against the debtor, shall be entitled to an order of Court directing the Sheriff of the county, or city and county, in which the matter is pending, to take into his custody a sufficient amount of property of the debtor to satisfy the demands of the petitioning creditors, and the costs of the proceedings. Upon receiving such order of the Court to take into custody property of the debtor, it shall be the duty of the Sheriff to take possession of the property and effects of the debtor, not exempt from execution, to an extent sufficient to cover the amount provided for, and to prepare, within three days from the time of taking such possession, a complete inven-

tory of all the property so taken, and to return it to the Court as soon as completed. The time for taking the inventory and making return thereof may be extended for good cause shown to the Court, or a Judge thereof. The Sheriff shall also prepare a schedule of the names and residences of the creditors, and the amount due to each, from the books of the debtor, or from such other papers or data of the debtor available that may come to his possession, and shall file such schedule, list of creditors, and inventory with the Clerk of the Court.

SEC. 17. In all cases where property is taken into the custody of the Sheriff, as provided in the preceding section, if the property taken into custody by the Sheriff does not embrace all the property and effects of the debtor not exempt from execution, any other creditor or creditors of the debtor, upon giving bond in double the amount of their claims, singly or jointly, shall be entitled to similar orders, and to like action by the Sheriff, until all claims be provided for, if there be sufficient property or effects. All property taken into custody by the Sheriff, by virtue of the giving of any such bonds, shall be held by him for the benefit of all creditors of the debtor whose claims shall be duly proved, and as provided in this Act. The bonds provided for in this and the preceding section to procure the order for custody of the property and effects of the debtor, shall be conditioned that if, upon final hearing of the petition in insolvency, the Court shall find in favor of the petitioners, such bonds and all of them shall be void; if the decision be in favor of the debtor, the proceedings shall be dismissed, and the debtor, his heirs, administrators, executors, or assigns, shall be entitled to recover such sum of money as shall be sufficient to cover the damages sustained by him, not to exceed the amount of the respective bonds, in any Court having jurisdiction of the subject and the parties; *provided*, that if either the petitioners or the debtor shall appeal from the decision of the Court, upon final hearing of the petition the appellant shall be required to give bond to the successful party in a sum double the amount of the value of the property in controversy and for the costs of the proceedings. Any person interested in the estate may except to the sufficiency of the sureties on such bond or bonds. When excepted to, the petitioner's sureties, upon notice to the person excepting of not less than two nor more than five days, must justify before a Judge or County Clerk in the same manner as upon bail on arrest; and upon failure to justify, or if others in their place fail to justify, at the time and place appointed, the Clerk or Judge shall issue an order vacating the order to take the property of the debtor into the custody of the Sheriff.

SEC. 18. If, in any case, proper affidavits and bonds are presented to the Court, or a Judge thereof, asking for and obtaining an order of publication, and an order for the custody of the property of the debtor, as provided in sections sixteen and seventeen of this Act, and thereafter the petitioners shall make it appear satisfactorily to the Court, or a Judge thereof, that the interest of the parties to the proceedings will be subserved by a sale thereof, the Court may order such property to be sold,

in the same manner as property is sold under execution, the proceeds to be deposited in the Court, to abide the result of the proceedings.

#### ARTICLE IV.

##### ASSIGNEES.

SEC. 19. At a meeting of the creditors, in open Court, those being entitled to vote, as provided by section eight, shall proceed to the election of one assignee. In electing an assignee, the opinion of the majority in amount of claims shall prevail. The Clerk of the Court shall keep a minute of the deliberations of said creditors, and of the election and appointment of an assignee, and enter the same upon the records of the Court. The assignee shall file, within five days, unless the time be extended by the Court, with the Clerk, a bond, in an amount to be fixed by the Court, to the State of California, with two or more sufficient sureties, approved by the Court, and conditioned for the faithful performance of the duties devolving upon him. The bond shall not be void upon the first recovery, but may be sued upon from time to time by any creditor aggrieved, in his own name, until the whole penalty be exhausted. The sureties on such bond may be required to justify, upon the application of any party interested, in the same manner as bail upon arrest in civil cases.

SEC. 20. If, on the day appointed for the meeting, creditors do not attend, or refuse to elect an assignee; or if, after election, the assignee shall fail to qualify within the proper time, or if a vacancy occurs by death or otherwise, it shall be lawful for the Court to appoint an assignee and fix the amount of his bond.

SEC. 21. As soon as an assignee is elected or appointed and qualified, the Clerk of the Court shall, by an instrument under his hand and seal of the Court, assign and convey to the assignee all the estate, real and personal, of the debtor, with all his deeds, books, and papers relating thereto, and such assignment shall relate back to the commencement of the proceedings in insolvency, and shall relate back to the acts upon which the adjudication was founded, and by operation of law shall vest the title to all such property and estate, both real and personal, in the assignee, although the same is then attached on mesne process, as the property of the debtor, and shall dissolve any attachment made within one month next preceding the commencement of the insolvency proceedings. Such assignment shall operate to vest in the assignee all of the estate of the insolvent debtor not exempt by law from execution. Whenever such assignment shall dissolve an attachment as herein provided, it shall also vacate any judgment made or entered, and dissolve and set aside any execution levied in any action or proceeding against the debtor commenced subsequently to the action in which the attachment is dissolved.

SEC. 22. The assignee shall have the right to recover all the estate, debts, and effects of said insolvent. If, at the time of the commencement of proceedings in insolvency, an action is

pending in the name of the debtor, for the recovery of a debt or other thing which might or ought to pass to the assignee by the assignment, the assignee shall be allowed and admitted to prosecute the action, in like manner and with like effect as if it had been originally commenced by him. If there are any rights of action in favor of the insolvent for damages, on any account, for which an action is not pending, the assignee shall have the right to prosecute the same with the same effect as the insolvent might have done himself if no proceedings in insolvency had been instituted. If any action or proceeding at law, or in equity, in which the insolvent is defendant, is pending at the time of the adjudication, the assignee may defend the same, in the same manner and with like effect as it might have been defended by the insolvent. In suit prosecuted or defended by the assignee, a certified copy of the assignment made to him shall be conclusive evidence of his authority to sue or defend.

SEC. 23. The assignee shall, within one month after the making of the assignment to him, cause the same to be recorded in every county, or city and county, within this State, where any lands owned by the debtor are situated; and the record of such assignment, or a duly certified copy thereof, shall be conclusive evidence thereof in all Courts. If the schedule and inventory required by this Act have not been filed by the debtor, the assignee shall, within one month after his election, prepare and file such schedule and inventory from the best information he can obtain; and shall thereupon serve notice, by United States mail, postage prepaid, or personally, on all creditors named in such schedule, whose claims have not been filed, to forthwith prove their demands.

SEC. 24. Any assignee may, at any time, by writing filed in Court, resign his appointment, having first settled his accounts, and delivered up all the estate to such successor as the Court shall appoint; *provided*, that if, in the discretion of the Court, the circumstances of the case require it, upon good cause being shown, the Court may, at any time before such settlement of account and delivery of the estate shall have been completed, revoke the appointment of such assignee and appoint another in his stead. The liability of the outgoing assignee, or of the sureties on his bond, shall not be in any manner discharged, released, or affected by such appointment of another in his stead.

SEC. 25. The said assignee shall have power:

1. To sue in his own name and recover all the estate, debts, and things in action, belonging or due to such debtor, and no set-off or counter-claim shall be allowed in any such suit for any debt, unless it was owing to such creditor by such debtor at the time of the adjudication of insolvency.

2. To take into his possession all the estate of such debtor except property exempt by law from execution, whether attached or delivered to him, or afterward discovered, and all books, vouchers, evidence of indebtedness, and securities belonging to the same.

3. In case of a non-resident, absconding, or concealed debtor,

to demand and receive of every Sheriff who shall have attached any of the property of such debtor, or who shall have in his possession any moneys arising from the sale of such property, all such property and moneys, on paying him his lawful costs and charges for attaching and keeping the same.

4. From time to time to sell at public auction all the estate, real and personal, vested in him as such assignee, which shall come to his possession and as ordered by the Court.

5. On such sales to execute the necessary conveyances and bills of sale.

6. To redeem all valid mortgages and conditional contracts, and all valid pledges of personal property, and to satisfy any judgments which may be an incumbrance on any property sold by him, or to sell such property, subject to such mortgage, contracts, pledges, or judgments.

7. To settle all matters and accounts between such debtor and his debtors, subject to the approval of the Court.

8. Under the order of the Court appointing him, to compound with any person indebted to such debtor, and thereupon to discharge all demands against such person.

9. To have and recover from any person receiving a conveyance, gift, transfer, payment, or assignment, made contrary to any provision of this Act, the property thereby transferred or assigned; or in case a re-delivery of the property cannot be had, to recover the value thereof, with damages for the detention.

SEC. 26. The insolvent shall, either before or on the day appointed for the meeting of creditors, deliver to the Court all the commercial or account books he may have kept, which books shall be deposited in the Clerk's office of said Court. Said insolvent shall also deliver to the Court, at the same time, all vouchers, notes, bonds, bills, securities, or other evidences of debt, in any manner relating to or having any bearing upon or connection with the property surrendered by said debtor; and all such papers or securities shall be deposited in the Clerk's office of said Court, and the Clerk shall hand them over, together with the books of the insolvent, to the assignee who may be appointed.

SEC. 27. If any person, before the assignment is made, having notice of the commencement of proceedings in insolvency, or having reason to believe that insolvency proceedings are about to be commenced, embezzles or disposes of any of the moneys, goods, chattels, or effects of the insolvent, he is chargeable therewith, and liable to an action by the assignee for double the value of the property so embezzled or disposed of, to be recovered for the benefit of the estate.

SEC. 28. The same penalties, forfeitures, and proceedings by citation, examination, and commitment, shall apply on behalf of an assignee against persons suspected of having concealed, embezzled, conveyed away, or disposed of any property of the debtor, or of having possession or knowledge of any deeds, conveyances, bonds, contracts, or other writings which relate to any interest of the debtor in any real or personal estate, as provided in the case of estates of deceased persons in sections one

thousand four hundred and fifty-nine, one thousand four hundred and sixty, and one thousand four hundred and sixty-one of the Code of Civil Procedure.

SEC. 29. The assignee shall as speedily as possible convert the estate, real and personal, into money. He shall keep a regular account of all moneys received by him as assignee, to which every creditor or other person interested therein may, at all reasonable times, have access. No private sale of any property of the estate of an insolvent debtor shall be valid unless made under the order of the Court, upon a petition in writing, which shall set forth the facts showing the sale to be necessary. Upon filing the petition, notice of at least ten days shall be given by publication and mailing, in the same manner as is provided in section seven of this Act. If it appears that a private sale is for the best interests of the estate, the Court shall order it to be made.

SEC. 30. In all cases where there has been personal service of the order to show cause, or voluntary appearance after order of publication, when it appears to the satisfaction of the Court that the estate of the debtor, or any part thereof, is of a perishable nature, or is liable to deteriorate in value, or is disproportionately expensive to keep, the Court may order the same to be sold in such manner as may be deemed most expedient, under the direction of the Sheriff, receiver, or assignee, as the case may be, who shall hold the funds received in place of the property sold until further order of the Court.

SEC. 31. Outstanding debts, or other property due or belonging to the estate, which cannot be collected and received by the assignee without unreasonable or inconvenient delay or expense, may be sold and assigned in like manner as the remainder of the estate. If there are any rights of action for damages in favor of the insolvent prior to the commencement of the insolvency proceedings, the same may, with the approval of the Court, be compromised.

SEC. 32. Assignees shall be allowed all necessary expenses in the care, management, and settlement of the estate, and shall be entitled to charge and receive for their services commissions upon all sums of money coming to their hands and accounted for by them, as follows: For the first thousand dollars, at the rate of seven per cent; for all above that sum and not exceeding ten thousand dollars, at the rate of five per cent; and for all above that sum, at the rate of four per cent; *provided, however,* that if the person acting as assignee was receiver of the property of the estate pending the election of an assignee, any compensation allowed him as such receiver shall be deducted from the compensation to which he otherwise would be entitled as such assignee.

SEC. 33. At the expiration of three months from the appointment of the assignee in any case, or as much earlier as the Court may direct, a time and place shall be fixed by the Court at which the assignee shall exhibit to the Court and to the creditors, and file, just and true accounts of all his receipts and payments, verified by his oath, and a statement of the property outstand-

ing, specifying the cause of its outstanding, also what debts or claims are yet undetermined, and stating what sum remains in his possession, and shall accompany the same with an affidavit that notice by mail has been given to all creditors named in the schedule filed by the debtor or the assignee that said accounts will be heard at a time specified in such notice, which time shall not be less than ten nor more than fifteen days from the filing of such accounts. At the hearing the Court shall audit the accounts, and any person interested may appear and file exceptions thereto and contest the same, and thereupon the Court may order a dividend paid to those creditors whose claims have been proven and allowed. Thereafter, further accounts, statements, and dividends shall be made in like manner as often as occasion requires; *provided, however,* that it shall be the duty of the assignee to file his final account within one year from the date of the order of adjudication, unless the Court, after notice to creditors, shall grant further time, upon a satisfactory showing that great loss and waste would result to the estate by reason of the conversion of the property into money within said time, or that it has been impossible to do so by reason of litigation.

SEC. 34. The Court shall at any time, upon the motion of any two or more creditors, require the assignee to file his account in the manner and upon giving the notice specified in the preceding section; and if he has funds subject to distribution, he shall be required to distribute them without delay.

SEC. 35. All creditors whose debts are duly proved and allowed shall be entitled to share in the property and estate *pro rata* without priority or preference whatever, other than as provided in this Act and in section one thousand two hundred and four of the Code of Civil Procedure; *provided*, that any debt proved by any person liable as bail, surety, guarantor, or otherwise, for the debtor, shall not be paid to the person so proving the same until satisfactory evidence shall be produced of the payment of such debt by such person so liable; and the share to which such debt would be entitled may be paid into Court, or otherwise held, for the benefit of the party entitled thereto, as the Court may direct.

SEC. 36. Whenever any dividend has been duly declared, the distribution of it shall not be stayed or affected by reason of debts being subsequently proved; but the creditors proving such debts shall be entitled to a dividend equal to those already received by the other creditors, before any further dividend is made to the latter; *provided*, the failure to prove such claim shall not have resulted from his own neglect.

SEC. 37. Should the assignee refuse or neglect to render his accounts as required by sections thirty-three and thirty-four of this Act, or pay over a dividend when he shall have, in the opinion of the Court, sufficient funds for that purpose, the Court shall immediately discharge such assignee from his trust, and shall have power to appoint another in his place. The assignee so discharged shall forthwith deliver over to the assignee appointed by the Court all the funds, property, books,

vouchers, or securities belonging to the insolvent, without charging or retaining any commission or compensation for his personal services.

SEC. 38. Preparatory to the final account and dividend, the assignee shall submit his account to the Court, and file the same, and shall at the time of filing accompany the same with an affidavit that a notice by mail has been given to all creditors who have proved their claims, that he will apply for a settlement of his account, and for a discharge from all liability as assignee, at a time specified in such notice, which time shall not be less than ten nor more than twenty days from such filing. At the hearing, the Court shall audit the account, and any person interested may appear and file exceptions in writing, and contest the same. The Court thereupon shall settle the account, and order a dividend of any portion of the estate remaining undistributed, and shall discharge the assignee, subject to compliance with the order of the Court, from all liability as assignee to any creditor of the insolvent.

## ARTICLE V.

### PARTNERSHIPS AND CORPORATIONS.

SEC. 39. Two or more persons who are partners in business, or the surviving partner of any firm, may be adjudged insolvent, either on the petition of such partners, or any one of them, or on the petition of five or more creditors of the partnership, qualified as provided for in section nine of this Act; in which case an order shall be issued in the manner provided by this Act, upon which all the joint stock and property of the partnership, and also all the separate estate of each of the partners, shall be taken, excepting such parts thereof as may be exempt by law; and all the creditors of the company, and the separate creditors of each partner, shall be allowed to prove their respective debts; and the assignee shall be chosen by the creditors of the copartnership, and shall also keep separate accounts of the joint stock or property of the copartnership, and the separate estate of each member thereof, and after deducting out of the whole amount received by such assignee the whole amount of the expenses and disbursements, the net proceeds of the joint stock shall be appropriated to pay the creditors of the copartnership, and the net proceeds of the separate estate of each partner shall be appropriated to pay his separate creditors; and if there shall be any balance of the separate estate of any partner after the payment of his separate debts, such balance shall be added to the joint stock for the payment of the joint creditors; and if there shall be any balance of the joint stock after the payment of the joint debts, such balance shall be divided and appropriated to and among the separate estate of the several partners according to their respective right and interest therein, and as it would have been if the partnership had been dissolved without any insolvency; and the sum so appropriated to the separate estate of each

partner shall be applied to the payment of his separate debts, and the certificate of discharge shall be granted or refused to each partner as the same would or ought to be if the proceedings had been by or against him alone under this Act; and in all other respects the proceedings as to the partners shall be conducted in the like manner as if they had been commenced and prosecuted by or against one person alone. If such copartners reside in different counties, the Court in which the petition is first filed shall retain exclusive jurisdiction over the case. If the petition be filed by less than all the partners of a copartnership, those partners who do not join in the petition shall be ordered to show cause why they, as individuals, and said copartnership, should not be adjudged to be insolvent, in the same manner as other debtors are required to show cause upon a creditors' petition, as in this Act provided; and no order of adjudication shall be made in said proceedings until after the hearing of said order to show cause; *provided*, that in case of proceedings by or against surviving partners, as such, only the partnership interest of deceased partners shall be subject to the control of the Court in the insolvency proceeding; but the surviving partner, assignee, or creditors may pursue the property of the deceased partners in the Court having jurisdiction thereof in probate proceedings.

SEC. 40. The provisions of this Act shall apply to corporations, and upon the petition of any officer of any corporation, duly authorized by the vote of the Board of Directors or Trustees, at a meeting specially called for that purpose, or by the assent in writing of a majority of the Directors or Trustees, as the case may be, or upon a creditors' petition made and presented in the manner provided in respect to debtors, the like proceedings shall be had and taken as are provided in the case of debtors. All the provisions of the Act which apply to the debtor, or set forth his duties, examination, and liabilities, or prescribe penalties, or relate to fraudulent conveyances, payments, and assignments, apply to each and every officer of any corporation in relation to the same matters concerning the corporation. Whenever any corporation is declared insolvent, all its property and assets shall be distributed to the creditors; but no discharge shall be granted to any corporation.

## ARTICLE VI.

### PROOF OF DEBTS.

SEC. 41. All debts due and payable from the debtor at the time of the adjudication of insolvency, and all debts then existing but not payable until a future time, a rebate of interest being made when no interest is payable by the terms of the contract, may be proved against the estate of the debtor.

SEC. 42. All demands against the debtor for or on account of any goods or chattels wrongfully taken, converted, or withheld by him, may be proved and allowed as debts to the amount of the value of the property so withheld, from the

time of the conversion; *provided, however,* that if the assignee, or any creditor whose claim has been proven against the estate, shall request it in writing, the Court shall require the matter of such claim for damages to be tried as an ordinary action at law, to determine the liability of the debtor for such damages.

SEC. 43. If the debtor shall be bound as indorser, surety, bail, or guarantor, upon any bill, bond, note, or other specialty or contract, or for any debt of any person, and his liability shall not have become absolute until the adjudication of insolvency, the creditor may prove the same after such liability shall have become fixed, and before the final dividend shall have been declared.

SEC. 44. In all cases of contingent debts, and contingent liabilities contracted by the debtor, and not herein otherwise provided for, the creditor may make claim therefor and have his claim allowed, with the right to share in the dividends, if the contingency shall happen before the order of the final dividend; or he may, at any time, apply to the Court to have the present value of the debt or liability ascertained and liquidated, which shall be done in such manner as the Court shall order, and shall be allowed to prove for the amount so ascertained.

SEC. 45. Any person liable as bail, surety, or guarantor, or otherwise, for the debtor, who shall have paid the debt, or any part thereof, in discharge of the whole, shall be entitled to prove such debt, or to stand in the place of the creditor, if he shall have proved the same, although such payments shall have been made after the proceedings in insolvency were commenced; and any person so liable for the debtor, and who has not paid the whole of said debt, but is still liable for the same, or any part thereof, may, if the creditor shall fail or omit to prove such debt, prove the same in the name of the creditor.

SEC. 46. Where the debtor is liable to pay rent, or other debt falling due at fixed and stated periods, the creditor may prove for a proportionate part thereof up to the time of the insolvency, as if the same became due from day to day, and not at such fixed and stated periods.

SEC. 47. In all cases of mutual debts and mutual credits between the parties, the account between them shall be stated, and one debt set off against the other, and the balance only shall be allowed and paid. But no set-off or counter-claim shall be allowed of a claim in its nature not provable against the estate; *provided,* that no set-off or counter-claim shall be allowed in favor of any debtor to the insolvent of a claim purchased by or transferred to him after the filing of the petition by or against him.

SEC. 48. When a creditor has a mortgage, or pledge of real or personal property of the debtor, or a lien thereon, for securing the payment of a debt owing to him from the debtor, he shall be admitted as a creditor only for the balance of the debt, after deducting the value of such property, to be ascertained by agreement between him and the receiver, if any, and if no receiver, then upon such sum as the Court, or a Judge thereof,

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may decide to be fair and reasonable, before the election of an assignee, or by a sale thereof, to be made in such manner as the Court, or Judge thereof, shall direct; or the creditor may release or convey his claim to the receiver, if any, or if no receiver then to the Sheriff, before the election of an assignee, or to the assignee if an assignee has been elected, upon such property, and be admitted to prove his whole debt. If the value of the property exceeds the sum for which it is so held as security, the assignee may release to the creditor the debtor's right of redemption thereon on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon, and in either case the assignee and creditor, respectively, shall execute all deeds and writings necessary or proper to consummate the transaction. If the property is not sold or released, and delivered up, or its value fixed, the creditor shall not be allowed to prove any part of his debt.

SEC. 49. No creditor, proving his debt or claim, shall be allowed to maintain any suit at law or in equity therefor, against the debtor, but shall be deemed to have waived all right of action and suit against him; and all proceedings already commenced, or unsatisfied judgment already obtained thereon, shall be deemed to be discharged and surrendered thereby; *provided*, that no valid lien existing in good faith thereunder shall be thereby affected; *and further provided*, that a creditor proving his debt or claim shall not be held to have waived his right of action or suit against the debtor where a discharge has been refused or the proceedings have determined without a discharge. And no creditor whose debt is provable under this Act shall be allowed, after the commencement of proceedings in insolvency, to prosecute to final judgment any action therefor against the debtor until the question of the debtor's discharge shall have been determined; and any such suit or proceeding shall, upon the application of the debtor, or of any creditor, or of the assignee, be stayed to await the determination of the Court in insolvency on the question of discharge; *provided*, there be no unreasonable delay on the part of the debtor, or of the petitioning creditors, as the case may be, in prosecuting the case to its conclusion; *and provided also*, that if the amount due the creditor is in dispute, the suit, by leave of the Court, in insolvency may proceed to judgment for the purpose of ascertaining the amount due, which amount may be proven in insolvency, but execution shall be stayed as aforesaid; *provided further*, that where a valid lien or attachment has been acquired or secured in any such action, and an undertaking been offered and accepted in lieu of such lien or attachment, the case may be prosecuted to final judgment for the purpose of fixing the liability of the sureties upon such undertaking; but execution against the insolvent upon such judgment shall be stayed.

SEC. 50. Any person who shall have accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of this Act, shall not prove the debt or claim on account of which the preference was made or given; nor shall he receive any divi-

dend thereon until he shall first have surrendered to the assignee all property, money, benefit, or advantage received by him under such preference.

SEC. 51. The Court may, upon the application of the assignee, or of any creditor of the debtor, or without any application, before or after adjudication in insolvency, examine upon oath the debtor in relation to his property and his estate, and any person tendering or making proof of claims, and may subpoena witnesses to give evidence relating to such matters. All examinations of witnesses shall be had and depositions shall be taken in accordance with and in the same manner as is provided by the Code of Civil Procedure.

## ARTICLE VII.

### DISCHARGE.

SEC. 52. At any time after the expiration of three months from the adjudication of insolvency, but not later than one year from such adjudication, unless the property of the insolvent has not been converted into money, the debtor may apply to the Court for a discharge from his debts, and the Court shall thereupon order notice to be given to all creditors who have proved their debts, to appear, on a day appointed for that purpose, and show cause why a discharge should not be granted to the debtor; said notice shall be given by mail and by publication at least once a week for four weeks, in a newspaper published in the county, or city and county, or, if there be none, in a newspaper published nearest such county, or city and county; *provided*, that if no debts have been proven, such notice shall not be required.

SEC. 53. No discharge shall be granted, or if granted shall be valid, if the debtor shall have sworn falsely in his affidavit annexed to his petition, schedule, or inventory, or upon any examination in the course of the proceedings in insolvency, in relation to any material fact concerning his estate or his debts, or to any other material fact; or if he has concealed any part of his estate or effects, or any books or writing relating thereto; or if he has been guilty of fraud or willful neglect in the care, custody, or delivery to the assignee of the property belonging to him at the time of the presentation of his petition and inventory, excepting such property as he is permitted to retain under the provisions of this Act, or if he has caused or permitted any loss or destruction thereof; or if, within one month before the commencement of such proceedings, he has procured his lands, goods, moneys, or chattels to be attached, or seized on execution; or if he has destroyed, mutilated, altered, or falsified any of his books, documents, papers, writings, or securities; or has made, or been privy to the making of, any false or fraudulent entry in any book of account or other document with intent to defraud his creditors; or if he has given any fraudulent preference, contrary to the provisions of this Act, or made any fraudulent payment, gift, transfer, con-

veyance, or assignment of any part of his property, or has lost any part thereof in gaming, or has admitted a false or fictitious debt against his estate; or if, having knowledge that any person has proven such false or fictitious debt, he has not disclosed the same to his assignee within one month after such knowledge; or if, being a merchant or tradesman, he has not, subsequently to the passage of this Act, kept proper books of account; or if he, or any other person on his account or in his behalf, has influenced the action of any creditor, at any stage of the proceedings, by any pecuniary consideration or obligation; or if he has, in contemplation of becoming insolvent, made any pledge, payment, transfer, assignment, or conveyance of any part of his property, directly or indirectly, absolutely or conditionally, for the purpose of preferring any creditor or person having a claim against him, or who is, or may be, under liability for him, or for the purpose of preventing the property from coming into the hands of the assignee, or of being distributed under this Act in satisfaction of his debts; or if he has been convicted of any misdemeanor under this Act, or has been guilty of fraud contrary to the true intent of this Act; or, in case of voluntary insolvency, has received the benefits of this or any other Act of insolvency or bankruptcy within three years next preceding his application for discharge; or if insolvency proceedings in which he could have applied for a discharge are pending by or against him in the Superior Court of any other county or city and county in the State. And before any discharge is granted, the debtor shall take and subscribe an oath to the effect that he has not done, suffered, or been privy to any act, matter, or thing specified in this Act, as grounds for withholding such discharge or as invalidating such discharge, if granted.

SEC. 54. Any creditor opposing the discharge of a debtor shall file specifications, in writing, of the grounds of his opposition; and after the debtor has filed and served his answer thereto, which pleadings shall be verified, the Court shall try the issue or issues raised, with or without a jury, according to the practice provided by law in civil actions.

SEC. 55. If it shall appear to the Court that the debtor has in all things conformed to his duty under this Act, and that he is entitled under the provisions thereof to receive a discharge, the Court shall grant him a discharge from all his debts, except as hereinafter provided, and shall give him a certificate thereof, under the seal of the Court, in substance as follows: In the Superior Court of the County of —, State of California. Whereas, — has been duly adjudged an insolvent under the insolvent laws of this State, and appears to have conformed to all the requirements of law in that behalf, it is therefore ordered by the Court that said — be forever discharged from all debts and claims which by said insolvent laws are made provable against his estate, and which existed on the — day of —, on which the petition of adjudication was filed by (or against) him, excepting such debts, if any, as are by said insolvent laws excepted from the operation of a discharge

in insolvency. Given under my hand, and the seal of the Court, this \_\_\_\_ day of \_\_\_\_, A. D. \_\_\_. Attest: \_\_\_, Clerk.  
[Seal] \_\_\_, Judge.

SEC. 56. No debt created by fraud or embezzlement of the debtor, or his defalcation as a public officer, or while acting in a fiduciary character, shall be discharged under this Act, but the debt may be proved, and the dividend thereon shall be a payment on account of said debt; and no discharge granted under this Act shall release, discharge, or affect any person liable for the same debt for or with the debtor, either as partner, joint contractor, indorser, surety, or otherwise.

SEC. 57. A discharge, duly granted under this Act, shall, with the exceptions aforesaid, release the debtor from all claims, debts, liabilities, and demands set forth in his schedule, or which were or might have been proved against his estate in insolvency, and may be pleaded by a simple averment that on the day of its date such discharge was granted to him, setting forth the same in full, and the same shall be a complete bar to all suits brought on any such debts, claims, liabilities, or demands, and the certificate shall be *prima facie* evidence in favor of such fact and of the regularity of such discharge; provided, however, that any creditor of said debtor, whose debt was proved or provable against the estate in insolvency, who shall see fit to contest the validity of such discharge on the ground that it was fraudulently obtained, and who has discovered the facts constituting the fraud subsequent to the discharge, may, at any time within two years after the date thereof, apply to the Court which granted it to set it aside and annul the same, or if the same shall have been pleaded, the effect thereof may be avoided collaterally upon any such grounds.

SEC. 58. The refusal of a discharge to the debtor shall not affect the administration and distribution of his estate under the provisions of this Act.

## ARTICLE VIII.

### FRAUDULENT PREFERENCES AND TRANSFERS.

SEC. 59. If any debtor, being insolvent, or in contemplation of insolvency, within one month before the filing of a petition by or against him, with a view to give a preference to any creditor, or person having a claim against him, or who is under any liability for him, procures any part of his property to be attached, sequestered, or seized on execution, or makes any payment, pledge, mortgage, assignment, transfer, sale, or conveyance of any part of his property, either directly or indirectly, absolutely or conditionally, to any one, the person receiving such payment, pledge, mortgage, assignment, transfer, sale, or conveyance, or to be benefited thereby, or by such attachment or seizure, having reasonable cause to believe that such debtor is insolvent, and that such attachment, seizure, payment, pledge, mortgage, conveyance, transfer, sale, or assignment is made with a view to prevent his property from coming

to his assignee in insolvency, or to prevent the same from being distributed ratably among his creditors, or to defeat the object of, or in any way hinder, impede, or delay the operation of, or to evade any of the provisions of this Act, such attachment, sequestration, seizure, payment, pledge, mortgage, transfer, sale, assignment, or conveyance is void, and the assignee, or the receiver, may recover the property, or the value thereof, as assets of such insolvent debtor; and if such payment, pledge, mortgage, conveyance, sale, assignment, or transfer is not made in the usual and ordinary course of business of the debtor, or if such seizure or sequestration is made under a judgment which the debtor has confessed or offered to allow, that fact shall be *prima facie* evidence of fraud. All assignments, transfers, conveyances, mortgages, or incumbrances of real estate shall be deemed, under this section, to have been made at the time the instrument conveying or affecting such realty was filed for record in the County Recorder's office of the county, or city and county, where the same is situated.

## ARTICLE IX.

### PENAL CLAUSES.

SEC. 60. From and after the taking effect of this Act, if any debtor or insolvent shall, after the commencement of proceedings in insolvency, secrete or conceal any property belonging to his estate, or part with, conceal, or destroy, alter, mutilate, or falsify, or cause to be concealed, destroyed, altered, mutilated, or falsified, any book, deed, document, or writing relating thereto, or remove, or cause to be removed, the same or any part thereof, with intent to prevent it from coming into the possession of the assignee in insolvency, or to hinder, impede, or delay his assignee in recovering or receiving the same; or make any payment, gift, sale, assignment, transfer, or conveyance of any property belonging to his estate, with like intent, or shall spend any part thereof in gaming; or shall, with intent to defraud, willfully and fraudulently conceal from his assignee, or fraudulently or designedly omit from his schedule any property or effects whatsoever; or if, in case of any person having, to his knowledge or belief, proved a false or fictitious debt against his estate, he shall fail to disclose the same to his assignee within one month after coming to the knowledge or belief thereof; or shall attempt to account for any of his property by fictitious losses or expenses; or shall, within three months before commencement of proceedings of insolvency, under the false pretense of carrying on business and dealing in the ordinary course of trade, obtain on credit from any person any goods or chattels, with intent to defraud; or shall, with intent to defraud his creditors, within three months next before the commencement of proceedings in insolvency, pawn, pledge, or dispose of, otherwise than by *bona fide* transactions in the ordinary way of his trade, any of his goods and chattels which have been obtained on credit and remain unpaid for, he shall

be deemed guilty of misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than three months nor more than two years.

## ARTICLE X.

### MISCELLANEOUS.

SEC. 61. If any debtor shall die after the order of adjudication, the proceedings shall be continued and concluded in like manner and with like validity and effect as if he had lived.

SEC. 62. Pending proceedings by or against any person, copartnership, or corporation, no statute of limitations of this State shall run against a claim which in its nature is provable against the estate of the debtor.

SEC. 63. Any creditor, at any stage of the proceedings, may be represented by his attorney or duly authorized agent.

SEC. 64. It shall be the duty of the Court having jurisdiction of the proceedings to exempt and set apart, for the use and benefit of said insolvent, such real and personal property as is by law exempt from execution; and also a homestead, in the manner as provided in section one thousand four hundred and sixty-five of the Code of Civil Procedure. But no property or homestead shall be set apart, as aforesaid, until it is first proved that notice of the hearing of the application therefor has been duly given by the Clerk, by causing to be posted in at least three public places in the county at least ten days prior to the time of such hearing, setting forth the name of said insolvent debtor, and the time and place appointed for the hearing of such application, which said notice shall briefly indicate the homestead sought to be exempted or the property sought to be set aside; and the decree must show that such proof was made to the satisfaction of the Court, and shall be conclusive evidence of that fact.

SEC. 65. The filing of a petition by or against a debtor, upon which, or upon an amendment of which, an order of adjudication in insolvency may be made, shall be deemed to be the commencement of proceedings in insolvency under this Act.

SEC. 66. Words used in this Act in the singular include the plural, and in the plural, the singular, and the word "debtor" includes partnerships and corporations.

SEC. 67. Upon the filing of either a voluntary or involuntary petition in insolvency, a receiver may be appointed by the Court in which the proceeding is pending, or by a Judge thereof, at any time before the election of an assignee, when it appears by the verified petition of a creditor that the assets of the insolvent, or a considerable portion thereof, have been pledged, mortgaged, transferred, assigned, conveyed, or seized, on legal process, in contravention or violation of the provisions of section fifty-nine of this Act, and that it is necessary to commence an action to recover the same. The appointment, oath, undertaking, and powers of such receiver shall in all respects be regulated by the general laws of the State applicable to receivers.

When an assignee is chosen, and has qualified, the receiver shall forthwith return to Court an account of the assets and property which have come into his possession, and of his disbursements, and a report of all actions or proceedings commenced by him for the recovery of any property belonging to the estate, and the Court shall thereupon summarily hear and settle the receiver's account, and shall allow him a just compensation for his services, including a reasonable attorney's fee, whereupon the receiver shall deliver all property, assets, or effects remaining in his hands, to the assignee, who shall be substituted for the receiver in all pending actions or proceedings.

SEC. 68. All sections of the Code of Civil Procedure of the State of California relating to contempts are hereby made applicable to all proceedings under this Act.

SEC. 69. When an attachment has been made and is not dissolved before the commencement of proceedings in insolvency, or is dissolved by an undertaking given by the defendant, if the claim upon which the attachment suit was commenced is proved against the estate of the debtor, the plaintiff may prove the legal costs and disbursements of the suit, and of the keeping of the property, and the amount thereof shall be a preferred debt. In all contested matters in insolvency the Court may, in its discretion, award costs to either party, to be paid by the other, or to either or both parties, to be paid out of the estate, as justice and equity may require; in awarding costs, the Court may issue execution therefor. In all involuntary cases under this Act, the Court shall allow the petitioning creditors, out of the estate of the debtor, if any adjudication of insolvency be made, as a preferred claim, all legal costs and disbursements incurred by them in that behalf.

SEC. 70. The Court may, upon the application of the debtor, if it be a voluntary petition, or of the petitioning creditors, if a creditors' petition, dismiss the petition and discontinue the proceedings at any time before the appointment of an assignee, upon giving ten days' notice to the creditors, in the same manner that notice of the time and place of election of an assignee is given, if no creditor files written objections to such dismissal; *provided, however,* that by consent of all creditors the proceedings may be dismissed at any time. After the appointment of an assignee, no dismissal shall be made without the consent of all parties interested in or affected thereby.

SEC. 71. An appeal may be taken to the Supreme Court in the following cases:

1. From an order granting or refusing an adjudication of insolvency.
2. From an order made at the hearing of any account of an assignee, allowing or rejecting a creditor's claim, in whole or in part.
3. From an order granting or overruling a motion for a new trial.
4. From an order settling an account of an assignee.
5. From an order against or in favor of setting apart homestead or other property claimed as exempt from execution.

6. From an order granting or refusing a discharge to the debtor.

The notice, undertaking, and procedure on appeal shall conform to the general laws of this State regulating appeals in civil cases, except that when an assignee has given an official undertaking and appeals from a judgment or order in insolvency, his official undertaking stands in the place of an undertaking on appeal, and the sureties therein are liable on such undertaking; *provided, however,* that an appeal from an order granting or refusing an adjudication of insolvency shall not stay proceedings unless a written undertaking be entered into on the part of the appellant, with at least two sureties, in such an amount as the Court, or a Judge thereof, may direct, but not less than double the value of the property involved, to the effect that if the order appealed from be affirmed, or the appeal dismissed, appellant will pay all costs and damages which the adverse party may sustain by reason of the appeal and the stay of proceedings.

SEC. 72. The Insolvent Act of eighteen hundred and eighty, and all amendments thereto, are hereby repealed; *provided, however,* that such repeal shall in no manner invalidate or affect any case in insolvency instituted and pending in any Court on and prior to the day when this Act shall take effect.

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CHAPTER CXLV.

*An Act to amend section thirty-four hundred and forty-two of the Civil Code of the State of California, relating to fraudulent instruments and transfers.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section thirty-four hundred and forty-two of the Civil Code of the State of California is hereby amended to read as follows:

3442. In all cases arising under section twelve hundred and twenty-seven, or under the provisions of this title, except as otherwise provided in section thirty-four hundred and forty, the question of fraudulent intent is one of fact and not of law; nor can any transfer or charge be adjudged fraudulent solely on the ground that it was not made for a valuable consideration; *provided, however,* that any transfer or incumbrance of property made or given voluntarily, or without a valuable consideration, by a party while insolvent or in contemplation of insolvency, shall be fraudulent, and void as to existing creditors.

## CHAPTER CXLIX.

*An Act to amend section seventeen hundred and thirty-six of the Code of Civil Procedure, relating to a report as to the condition of the estate.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seventeen hundred and thirty-six of the Code of Civil Procedure is hereby amended to read as follows:

1736. The Public Administrator, or any person who received letters of administration while acting as Public Administrator, must, once in every six months, make to the Superior Court, under oath, a return of all the estates of decedents which have come into his hands, the value of each estate, the money which has come into his hands from every such estate, and what he has done with it, and the amount of his fees, and expenses incurred in each estate, and the balance, if any, in each such case remaining in his hands; publish the same six times in some newspaper published in the county, or if there is none, then post the same, legibly written or printed, in the office of the County Clerk of the county. One copy of the return must be filed with papers in each estate so reported.

SEC. 2. This Act shall take effect from and after its passage.

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## CHAPTER CL.

*An Act to amend an Act entitled "An Act providing for the removal of human remains from cemeteries in cities having a population of more than five thousand and not exceeding one hundred thousand," approved March 23, 1893.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Act of the Legislature entitled "An Act providing for the removal of human remains from cemeteries in cities having a population of more than five thousand and not exceeding one hundred thousand," approved March twenty-third, eighteen hundred and ninety-three, is hereby amended to read as follows:

1. The City Council of any city in this State having a population of more than fifteen hundred and not exceeding one hundred thousand, may, by ordinance duly passed, and under such lawful rules and regulations which it may adopt, provide for the exhuming, taking up, and removal from cemeteries within the boundary lines of such city, or from cemeteries owned and controlled by such city that may have been located

without its boundaries (and in which such cemeteries no interments of human remains have been made for a period of not less than two years), of all the human remains interred in such cemeteries.

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## CHAPTER CLII.

*An Act to amend section seven hundred and fifty-two of an Act entitled "An Act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, and the amendment thereto, approved March 19, 1889.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred and fifty-two of an Act entitled "An Act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and amended March nineteenth, eighteen hundred and eighty-nine, is hereby amended to read as follows:

Section 752. The members of the Board of Trustees, and of the Board of Education, and the City Clerk, City Attorney, Assessor, Marshal, Treasurer, and Recorder shall be elected by the qualified electors of said city, at a general municipal election, to be held therein on the second Monday in April in each odd-numbered year. The City Clerk, City Attorney, Assessor, Marshal, Treasurer, and Recorder shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. Members of the Board of Trustees and of the Board of Education shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; *provided*, that the first Board of Trustees and Board of Education elected under the provisions of this Act shall, at their first meeting, so classify themselves, by lot, as that three of their members shall go out of office at the expiration of two years, and two at the expiration of four years. The Board of Trustees may, in their discretion, appoint a Poundmaster, also a Superintendent of Streets and a City Engineer, all of whom shall hold office during the pleasure of the Board.

SEC. 2. This Act shall take effect and be in force from and after its passage.

## CHAPTER CLV.

*An Act to amend section three thousand seven hundred and thirteen of the Political Code, relating to the levy of taxes.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section three thousand seven hundred and thirteen of the Political Code is hereby amended so as to read as follows:

3713. The State Board of Equalization must, for State purposes for the forty-seventh and forty-eighth fiscal years, fix such an ad valorem rate of taxation upon each one hundred dollars in value of taxable property in this State, as after allowing five per cent for delinquencies in and costs of collection of taxes, as provided in section three thousand six hundred and ninety-six of the Political Code, will raise for the forty-seventh fiscal year:

*First*—For the General Fund, four million nine hundred and thirteen thousand and one hundred and six dollars.

*Second*—For the School Fund, two million one hundred and ninety-five thousand four hundred and fifty-nine dollars.

*Third*—For the Interest and Sinking Fund, one hundred and forty-one thousand four hundred and thirty-five dollars.

And for the forty-eighth fiscal year:

*First*—For the General Fund, two million six hundred and eighty-one thousand three hundred and seventy-one dollars.

*Second*—For the School Fund, two million one hundred and ninety-five thousand four hundred and fifty-nine dollars.

*Third*—For the Interest and Sinking Fund, one hundred and forty-one thousand four hundred and thirty-five dollars.

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## CHAPTER CLVI.

*An Act to prevent the sale of intoxicating liquors in the immediate vicinity of soldiers' homes.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Every person who sells or gives away any ale, beer, wine, cider, or other intoxicating liquors, within one and one half miles outside of the boundary line of the lands occupied by any home, retreat, or asylum for disabled volunteer soldiers, or soldiers and sailors, which has been or may hereafter be established by the Government of the United States, within the State of California, is guilty of a misde-

meanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, and in addition to such fine shall be imprisoned in the county jail thirty days; and upon the conviction of the owner or keeper thereof, the place wherein such intoxicating liquors shall have been sold or given away shall be, by order of the Court wherein such conviction is made, within ten days thereafter, shut up and abated as a nuisance. And it is hereby made the duty of the District Attorney of the county in which any such institution is or may be located to prosecute all offenders against the provisions of this Act.

SEC. 2. This Act shall take effect from and after its passage.

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## CHAPTER CLVII.

*An Act to add a new section to the Civil Code, to be designated as section six hundred and sixteen, authorizing corporations organized to establish and maintain or to improve cemeteries, to take and hold property bequeathed, granted, or given to them upon trust, to apply the same, or the proceeds or income thereof, to the improvement or embellishment of cemeteries, or of any lot therein, or to the erection or maintenance of any monument, structure, or improvement therein.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is hereby added to the Civil Code of this State, as follows, viz.:

616. Any corporation organized to establish and maintain, or to improve, a cemetery, may take and hold any property bequeathed, granted, or given to it upon trust, to apply the proceeds or income thereof to any or all of the following purposes: To the improvement or embellishment of such cemetery, or of any lot therein; or to the erection, renewal, repair, or preservation of any monument, fence, or other structure in such cemetery; or to the planting or cultivation of trees, shrubs, or plants in or around such cemetery, or any lot therein; or to the improving, ornamenting, or embellishing of such cemetery, or any lot therein, in any other mode or manner not inconsistent with the purposes for which said cemetery was established or is being maintained. Such property, and the proceeds or income thereof, shall be invested and re-invested by such corporation, in the bonds of the United States, or of this State, or of any municipality of this State, or in mortgages of real estate, if such investment be not repugnant to the terms of the bequest, grant, or gift.

SEC. 2. This Act shall take effect and be in force from and after its passage.

## CHAPTER CLIX.

*An Act prescribing how judgments which may be recovered against any city and county of over one hundred thousand population shall be paid.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. All existing judgments against any city and county of over one hundred thousand population shall be paid by the Treasurer of such city and county, out of the or any General Fund thereof, after the same shall have been audited by the Auditor, auditing officer, board, or other auditing officer or officers, and it is hereby made the duty of the Board of Supervisors and Mayor of such city and county to include in the tax levy for any fiscal year a sum sufficient to pay existing judgments.

SEC. 2. This Act shall take effect and be in force immediately after its passage.

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## CHAPTER CLX.

*An Act to amend an Act entitled "An Act to provide and regulate the manner of receiving and paying fees, commissions, percentages, and other compensation for official services in cities, and cities and counties, having a population of over one hundred thousand inhabitants, and prescribing the duties of officers with reference thereto," approved March 11, 1893, by adding two new sections thereto, to be known and designated as sections number fifteen and sixteen, respectively, providing for the appointment of certain clerks, to be known as fee clerks, prescribing the duties of such clerks, and regulating and providing for their salary.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Two new sections are hereby added to an Act entitled "An Act to provide and regulate the manner of receiving and paying fees, commissions, percentages, and other compensation for official services in cities, and cities and counties, having a population of over one hundred thousand inhabitants, and prescribing the duties of officers with reference thereto," approved March eleventh, eighteen hundred and ninety-three, to be known as sections fifteen and sixteen of said Act, to read as follows:

Section 15. For the purpose of carrying out the provisions of said Act the Treasurer of any such cities, or cities and counties, is hereby authorized to appoint clerks not to exceed three

in number, to be known as fee clerks, and said fee clerks shall be allowed a salary of one hundred and fifty dollars per month; they shall give a bond in whatever sum the said Treasurer may exact, and they shall perform such duties as he, the said Treasurer, may direct. The salaries of said clerks shall be a charge and paid out of the unapportioned fee fund in this Act created.

Section 16. The Boards of Supervisors of any such cities, or cities and counties, if in their judgment they deem it necessary, may grant additional assistance in the way of clerks to any of the fee officers whose labor has been increased under said Act; and the salaries of such additional clerks shall be allowed and audited out of said unapportioned fee fund.

SEC. 2. This Act shall take effect immediately.

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## CHAPTER CLXI.

*An Act concerning the completion of unfinished public buildings in any county, city, city and county, or town in this State, and permitting alterations of the original plans or designs for the construction thereof.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Where there are any unfinished public building or buildings now in process of construction in any county, city, city and county, or town in this State, the Board of Supervisors or other governing body of any county, city, city and county, or town, or any commission created by an Act of the Legislature, having in charge the construction of such unfinished building, shall have the right in the construction thereof to omit from the original or adopted plan therefor such part or parts as in their judgment they shall deem necessary to be left out; *provided*, no contract has been let for the construction of such part or parts. If, in the judgment of such officers, the public good requires, they may let contracts according to law for the construction, in whole or in part, of the unfinished portions of such public building or buildings in accordance with such altered plan. When the same shall have been constructed in accordance with such altered plan, the building shall be deemed to have been completed.

SEC. 2. Whenever, during the construction of such public building or buildings, changes in the original plans or designs have heretofore been made, and contracts for the construction of the work, in whole or in part, in accordance with the altered plans or designs, have been entered into by the Board of Supervisors, or other governing body of any county, city, city and county, or town, or by the commission having the construction thereof in charge, the said alteration of the original plans or designs that have been made and contracts for same that have been entered into, are hereby ratified, approved, and confirmed.

SEC. 3. This Act shall take effect from and after its passage.

## CHAPTER CLXII.

*An Act to amend an Act approved March 11, 1893, entitled "An Act to amend an Act entitled 'An Act to provide for the completion of all unfinished county, city, city and county, towns, and township buildings in the several counties, cities and counties, cities, and towns throughout the State of California,' approved March 11, 1891."*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one of the aforesaid Act is hereby amended so as to read as follows:

Section 1. In the event that the Board of Supervisors of the several counties, cities, and cities and counties of the State of California shall deem it expedient to continue the construction of any unfinished county, or city and county, or town, or township building or buildings now in the process of construction, they are hereby authorized and empowered to express such judgment, by resolution or order, in such form as they may deem proper; and for the purpose of raising the money necessary to complete said building or buildings the Board of Supervisors of the several counties, cities, and cities and counties of the State of California are hereby authorized and empowered to levy and collect, annually, for the fiscal year commencing July first, eighteen hundred and eighty-seven, and ending June thirtieth, eighteen hundred and eighty-eight, and each and every fiscal year thereafter during the eight fiscal years next ensuing, in the same manner and at the same times as other taxes in said counties, cities, and towns, and townships, and cities and counties are levied and collected, an ad valorem property tax on real and personal property within the said counties, or cities and counties, cities, towns, and townships, of ten cents on each one hundred dollars of value, as shown by the assessment rolls of said counties, cities, cities and counties, towns, and townships for the current fiscal year; provided, the moneys raised under the provisions of this Act shall be expended only in the manner and for the purposes authorized by law, or by the Act or Acts authorizing the construction of the building or buildings; and provided further, that no part of said moneys shall be used for the purchase of carpets, furniture, fixtures, or other office furnishings of the rooms or offices completed and in use at the time of the passage of this Act, nor for any furniture or other office fixtures or furnishings for the rooms or offices yet to be completed, save and except such office fixtures as are usually affixed to and constitute a part of the permanent structure or arrangement of such offices or rooms; and it is further provided, that whenever, in the judgment of the Board of Supervisors of the several counties, cities, and cities and counties of the State of California, or of any person or persons, board, or commission

having charge of any building or buildings now in the process of construction, it shall be deemed necessary for the preservation of the building or buildings, or convenient occupation thereof, or the improvement or maintenance of sanitary conditions therein, or the protection of life, to make repairs on said building or buildings, or alterations thereof not inconsistent with the accepted plan of the building or buildings, the Board of Supervisors, person or persons, board, or commission having legal charge of the same, shall have the power to expend in any one year on such repairs or alterations, exclusive of the cost of repairs or alterations on the roof or roofs thereof, the sum of ten thousand dollars, and no more; which sum may be expended without regard to any of the requirements of any Act or Acts authorizing the construction of the building or buildings, if the amount expended at any one time does not exceed the sum of one thousand dollars; but whenever an expenditure in excess of the sum of one thousand dollars should be required, it shall be made according to the provisions of the Act or Acts authorizing the construction of the building or buildings.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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### CHAPTER CLXIII.

*An Act to amend sections forty-seven and forty-eight of the Civil Code of the State of California, relating to libel and slander.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section forty-seven of the Civil Code is hereby amended so as to read as follows:

47. A privileged publication is one made—

1. In the proper discharge of an official duty.
2. In any legislative or judicial proceeding, or in any other official proceeding authorized by law.
3. In a communication, without malice, to a person interested therein, by one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information.

3. In a communication, without malice, to a person interested therein, by one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information.
4. By a fair and true report, without malice, in a public journal, of a judicial, legislative, or other public official proceeding, or of anything said in the course thereof, or of a verified charge or complaint made by any person to a public official, upon which complaint a warrant shall have been issued.

4. By a fair and true report, without malice, of the proceedings of a public meeting, if such meeting was lawfully convened for a lawful purpose and open to the public, or the publication of the matter complained of was for the public benefit.

SEC. 2. Section forty-eight of the Civil Code is hereby amended so as to read as follows:

48. In the cases provided for in subdivisions three, four, and five, of the preceding section, malice is not inferred from the communication or publication.

Sec. 3. This Act shall take effect immediately.

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## CHAPTER CLXIV.

*An Act to provide an official stenographic reporter to the Coroner of each county, or city and county, having one hundred thousand or more inhabitants, and providing the mode in which such reporter shall be appointed, and establishing the compensation and prescribing the duties of such reporter.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. It shall be lawful for the Coroner of every county, or city and county, of this State, having one hundred thousand or more inhabitants, to select and appoint an official stenographic reporter, such reporter to hold office during the pleasure of the Coroner making the appointment.

SEC. 2. The said official reporter shall be allowed and shall receive compensation as follows: One hundred and fifty dollars per month.

SEC. 3. It shall be the duty of said reporter to attend all inquests held by the Coroner of the said county, or city and county, and report in shorthand all testimony of witnesses, and all the proceedings of said inquests, and to transcribe the same into legible longhand and furnish two typewritten copies thereof, and shall certify the same, and file one of the copies with the said Coroner and the other copy with the Clerk of the said county, or city and county. He shall also, within a reasonable time after such testimony is taken, file with the said Clerk the shorthand notes taken by him at each inquest.

SEC. 4. The said official reporter shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office.

SEC. 5. Any report of the said official reporter duly appointed and sworn, when written out in longhand writing and certified by him as being a correct transcript of the testimony and proceedings in the case, shall be *prima facie* a correct statement of such testimony and proceedings.

SEC. 6. The salary of said reporter shall be audited and paid monthly out of the General Fund of the said county, or city and county.

SEC. 7. This Act shall take effect from and after its passage.

## CHAPTER CLXV.

*An Act to create the office of Fish and Game Warden, and to prescribe the powers, duties, and salary of such officer.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Board of Supervisors of each and every county in the State may, in its discretion, at their first meeting held in April, eighteen hundred and ninety-five, and at their first meeting held in January, eighteen hundred and ninety-seven, and in January every two years thereafter, appoint a suitable person to serve for the period of two years from the date of his appointment as Fish and Game Warden of the county, which office is hereby created; *provided*, that the person so appointed in April, eighteen hundred and ninety-five shall hold office only until January, eighteen hundred and ninety-seven, and until his successor is appointed and qualifies.

SEC. 2. Said Fish and Game Warden shall enforce the State laws, and all county and municipal ordinances relating to the protection of fish and game, and he shall be vested with all the powers of a peace officer to make arrests for the violation of such laws and ordinances.

SEC. 3. The salary of said Fish and Game Warden is hereby fixed, in accordance with the classification of counties, as follows:

SEC. 4. For counties of the first, second, and third classes, one hundred dollars per month; for counties of the fourth, fifth, and sixth classes, the sum of seventy-five dollars per month; for counties of the seventh, eighth, ninth, and tenth classes, the sum of sixty dollars per month, and for all other classes from the eleventh to the fifty-third, inclusive, the sum of fifty dollars per month. In addition thereto said Warden shall be allowed a sum not to exceed twenty-five dollars per month for expenses incurred by him in the performance of his duties. Said salary and expenses incurred must be paid monthly from the County Treasury. Said Fish and Game Warden shall, before entering upon the discharge of his duties, execute a bond with sureties in such sum as may be required by the Board of Supervisors, for the faithful and proper discharge of his duties as such Fish and Game Warden. Said Warden shall report quarterly to the Board of Supervisors of his county, giving a detailed statement of all arrests made, convictions had, fines collected, and generally in regard to the management of his office. Such officers may be removed by the Board of Supervisors for intemperance, neglect of duty, or other good and sufficient reasons.

SEC. 5. This Act shall take effect and be in force from and after its passage.

## CHAPTER CLXVI.

*An Act to create and administer a Public School Teachers' Annuity and Retirement Fund in the several counties and cities and counties of the State.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Superintendent of Public Schools, the County Treasurer, and the Chairman of the Board of Supervisors of each county or city and county, and their successors in office, are hereby constituted a Board of Trustees of the "School Teachers' Annuity and Retirement Fund," to provide for the disbursement of the same, and to designate the beneficiaries thereof, as hereinafter directed, which Board shall be known as the "School Teachers' Retirement Fund Commissioners."

SEC. 2. They shall organize as such Board by choosing one of their number as Chairman and one as Secretary. The County Treasurer shall be ex officio Treasurer of such fund. Such Board of Trustees shall have charge of and administer said fund and order payments therefrom according to the provisions of this Act. They shall report annually, in the month of July, to the Board of Supervisors the condition of such fund, and the receipts and the disbursements on account of the same, with a full and complete list of the beneficiaries of said fund, and the amounts paid to each of them.

SEC. 3. Whenever any teacher entitled to the benefits of this Act has taught in the public schools of this State for a period of twenty years, and shall become incapacitated from performing the duties of a teacher, such teacher shall, at his or her request, and may, in the discretion of the Board of School Trustees, without such request, be retired as a teacher, and shall thereafter receive an annuity out of said fund of forty-five dollars per month; and if such teacher has taught for twenty-five years or over, shall, under the same circumstances, be retired upon an annuity of fifty dollars per month; such payments to be made out of the fund in the different counties in proportion to the length of time taught by such teacher in each county; but in case any teacher should be retired within three years after the passage of this Act, he or she must, in order to receive the benefits thereof, pay into the fund provided for in this Act the sum of three hundred dollars; and provided further, that if at any time there shall not be sufficient money in said fund to pay the warrants drawn thereon as presented for payment, the Treasurer shall register said warrants, and mark on the back of each these words: "Presented for payment this — (giving day, month, and year), and not paid for want of funds. Treasurer of — County." And such warrants shall be paid in the order of registration and bear interest at five per cent per annum from date of registration.

SEC. 4. The Board herein provided for shall hold quarterly meetings on the third Saturday of January, April, July, and October of each year, at the office of the County Superintendent of Public Schools. Such Board shall biennially, at its meeting in January, select from its members a President and Secretary. It shall issue warrants, signed by its President and Secretary, to the persons entitled thereto, for the amount of money ordered paid to such persons from such fund by said Board, stating therein for what purpose such payment is made. It shall keep a record of all its proceedings, which shall be public. It shall at each quarterly meeting send to the Treasurer of the county or city and county and to the Auditor of such county or city and county a list of all persons, if any, entitled to payment out of the fund provided in this Act, stating the amount of such payments and for what granted, which lists shall be sworn to as correct by the President and Secretary of said Board, and the Auditor shall then enter a copy of said list in a book to be kept for him for that purpose, known as the "School Teachers' Annuity Fund Book." When such list has been entered in such book by the Auditor, he shall transmit the same to the Board of Supervisors of such county, or city and county, which Board shall order the payment of the amount named out of the fund provided for by this Act. A majority of the members of said Board shall constitute a quorum for the transaction of business.

SEC. 5. In addition to the powers hereinbefore granted to said Board, it shall have the further power, first, to subpoena and compel witnesses to attend and testify before it in all matters relating to the operation of this Act, and any member of said Board may administer an oath or affirmation to such witness, in the form prescribed in Courts of justice; second, to provide for the payment, out of said fund, of all expenses, such as for printing, for stationery, and for postage stamps, but the members of said Board, as such, shall serve without compensation; third, to make all such needful rules and regulations for the transaction of their business, from time to time, as may be necessary.

SEC. 6. To provide a fund for the payments provided for in this Act, the Secretary of the Board of Education of each municipality shall certify monthly to the Treasurer of such municipality, and the Board of Trustees in every school district outside of such municipalities shall certify and pay over in like manner to the County Treasurer of each county, and one per cent of the amount due each teacher as salary for the previous month; and all moneys derived from any other source shall be paid to the County Treasurer to the credit of such fund. Such Board shall also receive and place to the credit of said fund all moneys received from donations, legacies, gifts, bequests, or otherwise.

SEC. 7. This Act shall be binding only upon public school teachers who, after the passage of this Act, shall sign and deliver to the Board of Education of the municipality in which they are employed a notice in substantially the following form:

— — —, 1895.  
To the Board of Education (or Trustees, as the case may be)  
of — — —.

You are hereby notified that I agree to be bound by, and desire to avail myself of, the provisions of the Act of the Legislature of California, approved —, eighteen hundred and ninety-five, entitled "An Act to create and administer a School Teachers' Annuity and Retirement Fund in the several counties and cities and counties in this State."

— — —,  
Public School Teacher.

And no teacher employed in the public schools of this State at the time of the passage of this Act failing to give such notice shall be entitled to any benefits under this Act or subject to any of its burdens. And no teacher employed after the passage of this Act, who, within ninety days after such employment, fails to give such notice, shall share the benefits of or be subject to the burdens of this Act. Such notices shall be delivered to the Treasurer of such municipality, and a copy thereof to the Commissioners of said fund, and preserved as a record for their information.

SEC. 8. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 9. This Act shall take effect and be in force from and after its passage.

## CHAPTER CLXVII.

*An Act to amend sections three, four, five, seven, nine, ten, eleven, twelve, fourteen, fifteen, sixteen, and twenty-three of an Act entitled "An Act creating a Board of Bank Commissioners, and prescribing their duties and powers" (approved March 30, 1878, and as amended by an Act approved March 10, 1887), and to add four (4) new sections thereto, to be numbered twenty-four, twenty-five, twenty-six, and twenty-seven, relating to the powers and duties of such Commissioners.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. That section three of an Act entitled "An Act creating a Board of Bank Commissioners, and prescribing their duties and powers" (approved March thirtieth, eighteen hundred and seventy-eight, and as amended by an Act approved March tenth, eighteen hundred and eighty-seven), be and the same is hereby amended so as to read as follows:

Section 3. The duties of the Bank Commissioners shall be to prepare and furnish to every savings bank, bank, and banking company, or any other corporation incorporated under the laws of this State, or of any other State or Territory, or foreign country, doing a banking business in this State, applying there-

for, a license, in the form to be prescribed by them, authorizing such corporation to use the name and to transact the business of a savings bank, bank, or banking company, until the first day of July next thereafter; to receive and place on file in their office the reports required to be made by savings banks, banks, or banking corporations, by this Act; to prepare and furnish, on demand, to all persons, firms, partnerships, corporations, or officers required to make and return statements or reports to said Bank Commissioners by the provisions of this Act, blank forms for such statements or reports as may by law be required of them; to make, on or before the first day of October in each year, a report to the Governor of this State, containing a tabular statement and synopsis of the several reports which have been filed in their office since their last report, and any other proceedings had or done by them under this Act, showing generally the condition of the respective savings, commercial, and other banking corporations or institutions of this State, and such other matters as in their opinion may be of interest to the public, with a detailed statement, verified by their oaths, of all moneys and fees of office received by them during the same period.

SEC. 2. That section four of said Act is hereby amended to read as follows:

Section 4. It shall be the duty of one or more of the Bank Commissioners, as designated by the Commissioners, once in each year, and as often as in their judgment may be deemed necessary, without previous notice, to visit and make, personally, a full examination of each and every corporation mentioned in section three of this Act; to inspect all books, papers, notes, bonds, or evidences of debt of such corporation, and all securities; to ascertain the condition of every such corporation, its solvency, its ability to fulfill its obligations, and, if in their opinion it is deemed necessary, report its condition to the Attorney-General as soon as practicable after such examination.

SEC. 3. That section five of said Act is hereby amended to read as follows:

Section 5. Such Commissioners must examine, under oath, any of the officers, agents, and servants of any such corporation, in relation to the affairs and condition of such corporation, and may administer such oath personally; and whoever shall neglect or refuse, after demand and notice thereof, and without justifiable cause, to appear, or testify under oath, before the said Commissioners in the discharge of their duties, shall be deemed guilty of misdemeanor, and on conviction thereof be punished by a fine not exceeding five thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 4. That section seven of said Act is hereby amended to read as follows:

Section 7. No corporation shall use the name or transact the business of a savings bank, or bank, or banking corporation, without the license provided for by section three of this Act; and any corporation violating this provision shall forfeit the

sum of one hundred dollars per day during the continuance of the offense; and any person who enters upon, engages in, or carries on, or in any manner attends to the business or management of a savings bank, or bank, or banking corporation, doing business without such license, whether as manager, principal, agent, officer, employé, or otherwise, shall forfeit the sum of one hundred dollars for every day he so enters upon, engages in, or carries on, or attends to such business; and any violation of this section is also hereby declared to be a misdemeanor.

SEC. 5. That section nine of said Act is hereby amended to read as follows:

Section 9. Any corporation mentioned in section three of this Act, including banks in liquidation or insolvency, shall, whenever required by the Board of Bank Commissioners, make a report in writing to the Commissioners, verified by the oath of its President and its Secretary or Cashier, or its two principal officers. Said report shall show the actual financial condition of the corporation making the report at the close of any past day by the Commissioners specified, by stating:

*First*—The amount of its capital stock, and the number of shares into which it is divided.

*Second*—The names of the Directors, and the number of shares of stock held by each.

*Third*—The total amount actually paid, in money, by stockholders for capital stock, and the total amount of reserve fund, if any.

*Fourth*—The total amount due to depositors.

*Fifth*—The total amount and character of any other liabilities it may have.

*Sixth*—The amount at which the lot and building occupied by the bank for the transaction of its regular business, stands debited on its books, together with the market value of all other real estate held, whether acquired in settlement of loans or otherwise; the amount at which it stands debited on the bank books; in what county situated, and in what name the title is vested, if not in the name of the corporation itself.

*Seventh*—The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also, specifying the name of the person in whose name the property is held in trust or as security, in case it is held in any name other than that of the bank, and the instrument creating the security does not of itself disclose the name of the bank.

*Eighth*—The amount invested in bonds, designating each particular class, and the amount thereof.

*Ninth*—The amount loaned on stocks and bonds, designating each particular class, and the amount thereof.

*Tenth*—The amount of money loaned on other securities, with a particular designation of each class, and the amount loaned on each.

*Eleventh*—The actual amount of money on hand or deposited in any other bank or place, with the name of the place where deposited, and the amount in each place.

*Twelfth*—Any other property held or any amount of money loaned, deposited, invested, or placed, not otherwise herein enumerated, with the place where situate, and the value of such property, and the amounts so loaned, deposited, or placed.

The oaths of the officers to the statements above required shall state that they, and each of them, have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true; and any willfully false statement in the premises shall be perjury, and shall be punished as such. The reports as provided for by this section shall be required from each and every corporation herein mentioned at least three times in each year, and shall be transmitted to the Commissioners within fifteen days after the receipt from them of a request or requisition therefor.

SEC. 6. That section ten of said Act is hereby amended to read as follows:

Section 10. Any corporation mentioned in section three of this Act, failing to furnish to the Bank Commissioners any report by them required under the provisions of this Act, within the time herein specified, shall forfeit the sum of one hundred dollars per day during the time of such default.

SEC. 7. That section eleven of said Act is hereby amended to read as follows:

Section 11. If the Bank Commissioners, on examination of the affairs of any corporation mentioned in section three of this Act, shall find that any such corporation has been guilty of violating its charter, the laws of this State, or any of the provisions of this Act, or is conducting business in an unsafe manner, they shall, by an order addressed to the corporation so offending, direct discontinuance of such illegal and unsafe practices, and a conformity with the requirements of the law and its charter, and of the provisions of this Act. And if such corporation shall refuse or neglect to conform with such requirements before the expiration of the time in the order specified, or if it shall appear to said Commissioners and they shall unanimously decide that it is unsafe for any such corporation to continue to transact business, it shall be the duty of the Commissioners immediately to take such control of such corporation, and all the property and effects thereof, as may be necessary to prevent waste or diversion of assets, and to hold possession of the same until the order of Court hereinafter mentioned, and to immediately notify the Attorney-General of their action; and it is hereby made the duty of the Attorney-General, upon receiving such notification, to immediately commence suit in the proper Court against such corporation, and all the Directors or Trustees thereof, to enjoin and prohibit them from the transaction of any further business. If, upon the hearing of the case, the Court shall find that it is unsafe for such corporation to continue business, and that such corporation or institution is insolvent, said Court shall issue the injunction applied for and shall cause the same to be served according to law, and shall order the Commissioners to surren-

der to the corporation the property thereof in their possession for the purpose of liquidation; or, if the Court shall find that such corporation is solvent, and may safely continue business, it shall dismiss the action and order that the corporation be restored to the possession of its property. The issuance of the injunction hereinabove provided for shall, by operation of law, dissolve any and all attachments levied upon any property of such corporation within one month next preceding the date of the notification by the Commissioners to the Attorney-General as provided for in this section, and no attachment or execution shall, after the issuance of such injunction and during the process of liquidation hereinafter provided for, be levied upon any property of said corporation, nor shall any lien be created thereon. And if it shall appear to the Court at such hearing, or at any time during the liquidation hereinafter provided for, on the petition of one or more of the Bank Commissioners, or any other interested party, that any of the Directors or Trustees, or officers of said corporation have been guilty of fraud, malversation, or criminal carelessness or negligence, and that any of them are not the proper persons to be intrusted with the closing of the affairs and business of such corporation in the interest of the depositors, creditors, and stockholders thereof, the said Court shall cause to be issued in said action and served upon said Directors or Trustees, or officers, or any of them, an order to show cause why they, or any of them, should not be removed from office, which order shall briefly recite the grounds of the application, and shall be returnable at a time to be fixed by the Court; and if on the hearing the Court shall find that such Directors or Trustees, or officers, or any of them, ought to be removed from office, it shall enter its order of removal accordingly, which order shall be final in the premises; and if the Board of Directors or Trustees of the corporation shall neglect, for the period of ten days after such removal, to elect or appoint a successor or successors to the person or persons so removed, then the Court, by an order entered in said cause, shall appoint such successor or successors; and the Court shall also have power in like manner to fill all vacancies occurring in the Board, and to appoint Directors or Trustees in their stead, whenever from any cause there are no Directors or Trustees, or not a sufficient number thereof to constitute a quorum for the transaction of business; or when from any cause there are no Directors or Trustees, the Court may order an election by the stockholders to be held according to law. Subject to this right of removal and appointment, the Directors or Trustees of all banking corporations in liquidation shall be permitted to continue the management of the affairs of such corporations during the process of liquidation, under the direction of the Bank Commissioners, as hereinafter provided. The affairs of every corporation mentioned in this Act, which is hereafter forced into liquidation under the provisions of this Act, or otherwise goes into liquidation, shall be closed, and the business thereof settled within four years from the time it shall enter into liquidation, unless at the expiration of such time it shall obtain the consent,

in writing, from a majority of the Board of Bank Commissioners, to continue in liquidation for a longer period. The Bank Commissioners shall, however, have no power to grant a continuance for such purpose for a longer period than one year at each time, and the affairs of any corporation in process of liquidation at the time of the adoption of this section, as amended, shall be closed within a time to be designated by such Bank Commissioners. Any corporation mentioned herein now in liquidation, or that hereafter goes into liquidation, shall make reports of the condition of its affairs to the Bank Commissioners in the same manner as the solvent banks mentioned in this Act, and in addition thereto, shall state the amount of dividends paid, debts collected, and the amounts realized on property sold, if any, since the previous report. The Bank Commissioners shall have the power, and it is hereby made their duty, to examine the condition of every such corporation in liquidation, in the same manner as in the case of solvent banks; and they shall have a general supervision of any such corporation. They shall have the power to limit the number of employés necessary to close up the business of any such corporation, and to also limit the salaries of the same, and shall do all in their power to make such liquidation economical and as expeditious as the interests of the depositors and stockholders will admit. If any officer or employé of any corporation, insolvent or in liquidation, mentioned in this Act, shall refuse to comply with the provisions of this section, or disregard or refuse to obey the directions of said Bank Commissioners given in accordance with the provisions of this Act, such officer or employé shall be punished by a fine of not exceeding five thousand dollars, or by imprisonment in the county jail for not exceeding one year, or by both such fine and imprisonment, as a Court of competent jurisdiction may determine.

SEC. 8. That section twelve of said Act is hereby amended to read as follows:

Section 12. The Bank Commissioners shall each receive a salary of three thousand six hundred dollars per annum, and necessary traveling expenses, not to exceed, for the three Commissioners, the sum of three thousand dollars per annum, to be audited by the State Controller and paid by the State Treasurer, in the same manner as the salaries and expenses of other State officers. No person while holding any other office, or engaged in business of any kind requiring his personal attention between the hours of nine A. M. and four P. M., shall serve as Bank Commissioner.

SEC. 9. That section fourteen of said Act is hereby amended to read as follows:

Section 14. The Bank Commissioners shall have power to appoint a Secretary, at a salary of two hundred dollars per month. The said Commissioners shall keep their office open for business from nine o'clock A. M. until four o'clock P. M. every day, except non-judicial days. They shall procure rooms necessary for their office, at a rent not to exceed seventy-five dollars per month. They may also provide stationery, fuel,

and other conveniences necessary for the transaction of their duties, not exceeding in the aggregate the sum of five hundred dollars per annum. All expenditures authorized in this section shall be audited and paid in the same manner as the salary of the Commissioners.

SEC. 10. That section fifteen of said Act is hereby amended to read as follows:

Section 15. All reports required to be made to the Bank Commissioners by the provisions of this Act shall be filed and kept on file by the Bank Commissioners, in their office, and shall be open to the inspection of the public during their office hours.

SEC. 11. That section sixteen of said Act is hereby amended to read as follows:

Section 16. To pay the salaries and all other necessary expenses of the Commissioners, as provided for by this Act, every corporation receiving a license shall pay annually, in advance, to the Commissioners, in gold coin, its share of the amount required to pay such salaries and expenses; the share to be paid by any corporation to be determined by the proportion which its deposits bear to the aggregate deposits of all such corporations receiving licenses, as shown by the latest reports of such corporations to the Commissioners. Said Commissioners shall, on demand made therefor, and without charge, furnish to every corporation, society, association, company, institution, firm, person, or persons mentioned in this Act, copies of papers, statements, and reports filed in their office, and may, as provided by this Act, recover any and all moneys payable to them by any corporation, association, society, company, institution, firm, person, or persons, herein mentioned; and all moneys collected or received by such Bank Commissioners, or either of them, under or by virtue of the provisions herein, shall be by them delivered to the Treasurer of this State, who shall pay the same into a fund which is hereby created, and which shall be known as the "Bank Commissioners' Fund." And the unexpended balances of all moneys heretofore paid into the State Treasury by said Bank Commissioners shall be transferred to said fund and become a part thereof.

SEC. 12. That section twenty-three of said Act is hereby amended to read as follows:

Section 23. Every person, or number of persons, not being incorporated, engaged in the business of banking, or publicly receiving money on deposit, shall conduct such business under a name which shall show the true names of all persons engaged in said business, unless such person or persons have complied with or shall forthwith comply with the provisions of article seven, of chapter two, title ten, part four, division third, of the Civil Code of this State. Every person engaged for himself, or any person being the cashier, manager, or agent of two or more persons, not incorporated, engaged in the business of banking, or publicly receiving money on deposit, must, three times in each year, or oftener, as may be required by the Board of Bank Commissioners, make a report, in writing, to the Com-

missioners, verified under oath, which report shall show the actual financial condition of the said business on any past day by the Commissioners specified, and shall also state the facts required to be stated by incorporated banks or banking corporations in section nine of this Act, so far as the same appertain to said business. Such reports shall be transmitted to the Commissioners within fifteen days after the receipt from the Commissioners of a request or requisition therefor. Every person violating any of the provisions of this section is guilty of a misdemeanor, and is punishable by imprisonment in the county jail for not less than ninety days nor more than six months, or by fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment.

SEC. 13. A new section is hereby added to said Act, to be numbered twenty-four, and read as follows:

Section 24. No savings bank, or bank, or banking corporation, shall be incorporated in this State and conduct such banking business in a city or town of five thousand inhabitants or under with a capital stock of less than twenty-five thousand dollars, or in a city or town of over five thousand and not exceeding ten thousand inhabitants with a capital stock of less than fifty thousand dollars, or in a city or town of over ten thousand and not exceeding twenty-five thousand inhabitants with a capital stock of less than one hundred thousand dollars, or in a city or town of over twenty-five thousand inhabitants with a capital stock of less than two hundred thousand dollars. Before the Secretary of State issues to any corporation that proposes to do a banking business his certificate of the filing of the articles of incorporation, there must be filed in his office the affidavit of the persons named in said articles as the first Directors of the corporation, that all the capital stock has been actually and in good faith subscribed, and at least fifty per centum thereof paid, in lawful money of the United States, to a person in such affidavit named, for the benefit of the corporation. The remainder of the capital stock must be paid in within two years after said banking corporation receives from the Commissioners its first license to transact business, and if not so paid, no further license shall be issued to it; *provided, however,* that the provisions of this section shall not apply to corporations now in existence.

SEC. 14. A new section is hereby added to said Act, to be numbered twenty-five, and read as follows:

Section 25. The Directors of any savings bank, bank, or banking corporation having a capital stock, may semi-annually declare a dividend of so much of the net profits of the stockholders as they shall judge expedient; but every such corporation shall, before the declaration of such dividend, carry at least one tenth ( $\frac{1}{10}$ ) part of the net profits of the stockholders for the preceding half year to its surplus or reserve fund until the same shall amount to twenty-five per centum of its paid-up capital stock. But the whole, or any part of such surplus or reserve fund, if held as the exclusive property of stockholders, may at

any time be converted into paid-up capital stock, in which event such surplus or reserve fund shall be restored in manner as above provided until it amounts to twenty-five per centum of the aggregate paid-up capital stock. A larger surplus or reserve fund may be created, and nothing herein contained shall be construed as prohibitory thereof.

SEC. 15. A new section is hereby added to said Act, to be numbered twenty-six, and read as follows:

Section 26. The use of the word bank, or any other word or terms denoting or implying the conduct of the business of banking, or the use of the word savings, alone or in connection with other words denoting or implying the conduct of the business of a savings institution, or a savings and loan society, is hereby prohibited to all persons, firms, associations, companies, or corporations other than those subject to the supervision of the Bank Commissioners or required by this Act to report to them; and no license as in this Act provided shall be issued by the Commissioners to any corporation that does not receive money from the public as deposits in manner customary with commercial or savings banks. Any person, firm, association, company, or corporation not subject to the supervision of the Bank Commissioners or not required by this Act to report to them, making use of terms implying conduct of a bank, savings bank, or savings and loan society, by means of signs, advertisements, letter heads, bill heads, blank notes, blank receipts, certificates, circulars, or any written or printed, or partly written and partly printed, paper whatever, having thereon any artificial or corporate name or other word or words indicating that such business is the business of a bank, savings bank, or savings and loan society, shall forfeit for each day the offense is continued the sum of one hundred dollars, to be recovered as provided in this Act.

SEC. 16. A new section is hereby added to said Act, to be numbered twenty-seven, and read as follows:

Section 27. No banker, nor officer of any bank or corporation doing a banking business, shall advertise in any manner, or publish any statement of the capital stock authorized or subscribed, unless he advertise and publish in connection therewith the amount of capital actually paid up. Any officer, or the officers of any bank or corporation doing a banking business, advertising in any manner, or publishing a statement of the capital stock of such bank or banking corporation, authorized or subscribed, without the statement in connection therewith of the stock actually paid up, shall be guilty of a misdemeanor.

## CHAPTER CLXVIII.

*An Act to amend sections one thousand nine hundred and twelve, one thousand nine hundred and nineteen, one thousand nine hundred and twenty-three, one thousand nine hundred and twenty-nine, one thousand nine hundred and thirty-two, one thousand nine hundred and forty-two, one thousand nine hundred and sixty-two, one thousand nine hundred and seventy, one thousand nine hundred and eighty, one thousand nine hundred and eighty-three, one thousand nine hundred and eighty-four, one thousand nine hundred and eighty-five, one thousand nine hundred and ninety, two thousand and three, two thousand and four, two thousand and seven, two thousand and twenty-two, two thousand and twenty-four, two thousand and twenty-seven, two thousand and forty, two thousand and forty-eight, two thousand and seventy-six, two thousand and eighty-three, and two thousand and ninety-four of the Political Code of the State of California, and to add one new section thereto, to be known and numbered as section one thousand nine hundred and ninety-one, and to repeal sections one thousand nine hundred and eighty-seven, one thousand nine hundred and eighty-eight, one thousand nine hundred and eighty-nine, and two thousand and five of said Code, all relating to the National Guard of California.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one thousand nine hundred and twelve of the Political Code is hereby amended to read as follows:

1912. The organized uniformed militia of the State of California are known as the National Guard of the State of California. This force shall not exceed sixty-nine companies, of which sixty companies shall be infantry or artillery, as the Board of Location may direct, and five companies of the Naval Battalion, and the other four companies shall be distributed to such arms of the service as the Board of Location may direct. The National Guard must be located throughout the State with reference to the military wants thereof, means of concentration, and other military requirements.

SEC. 2. Section one thousand nine hundred and nineteen of the Political Code is hereby amended to read as follows:

1919. All staff officers shall be citizens of the State of California, and except Surgeons, Judges-Advocate, and Chaplains shall be examined as prescribed for elective officers in section one thousand nine hundred and seventy-four of this Code before being commissioned. This provision shall not apply to appointees on the staff of the Commander-in-Chief.

SEC. 3. Section one thousand nine hundred and twenty-three of the Political Code is hereby amended to read as follows:

1923. All moneys hereafter appropriated for the purchase of service uniforms or equipments shall be devoted entirely to the

purchase of uniforms and necessary equipments, which shall be the same as worn by similar corps in the United States Army, and nothing further shall be expended upon dress uniforms or equipments. Any regiment, unattached battalion, or unattached company may, however, adopt, subject to the approval of the Commander-in-Chief, a distinctive dress uniform and equipments, which may be worn on all occasions, unless otherwise ordered; but the expense of providing and maintaining such uniforms and equipments shall be borne entirely by the organization so adopting. There shall be a board of three officers, to be detailed by the Commander-in-Chief, which board shall meet from time to time, but at least once in each year, for the purpose of considering and recommending to the Commander-in-Chief what in its judgment is most urgently required for the uniforming and equipping of the Guard from time to time.

SEC. 4. Section one thousand nine hundred and twenty-nine of the Political Code is hereby amended to read as follows:

1929. Any enlisted man may be discharged before the expiration of his term of service, by order of the commanding officer of the regiment or unattached battalion, or, if a member of an unattached company, troop, or battery, by the brigade commander, on the recommendation of his company commander, and also for any of the following reasons: To accept promotion by commission; upon removal of residence from the State, or out of the bounds of the command to which he belongs to so great a distance that, in the opinion of the commanding officer, he cannot properly perform his military duty; upon disability, established by certificate of a medical officer; whenever such commanding officer shall approve the application of two thirds of the members of a company requesting the discharge of an enlisted man thereof, and if, at a regular meeting of a company, or of a meeting called for that purpose, two thirds of the members of a company desire by vote the discharge of one of their members, an application for the discharge of such soldier shall be made by the company commander. Or he may be dishonorably discharged for either of the following reasons: Upon conviction of felony in a civil Court; by sentence of a court-martial. A character shall be attached to all discharges. Every member of the National Guard dishonorably discharged from the military service of the State of California shall be disfranchised for the period of one year next ensuing such discharge. The discharges herein provided shall be made by the commanding officer of the regiment or unattached battalion, and in the case of members of unattached companies, troops, or batteries, by the brigade commander.

SEC. 5. Section one thousand nine hundred and thirty-two of the Political Code is hereby amended to read as follows:

1932. No dishonorably discharged non-commissioned officer, artificer, musician, or private, or member of a company dishonorably discharged from the National Guard, shall be permitted to again enter any company of the National Guard, except the offense is pardoned by the Commander-in-Chief. No dishonorably discharged officer of the National Guard of Cali-

fornia shall be permitted to hold any office of trust or emolument, nor be permitted to again enter any company of the National Guard, except the offense be pardoned by the Commander-in-Chief.

SEC. 6. Section one thousand nine hundred and forty-two of the Political Code is hereby amended to read as follows:

1942. The colors carried by organizations of the National Guard shall be such as are borne by similar organizations of the United States Army, except that the regimental or battalion colors shall have thereon the State coat of arms, instead of the arms of the United States; and no military organization provided for by the Constitution and laws of the State, and receiving State support, shall, while under arms, either for ceremony or duty, carry any device, banner, or flag of any State or Nation, except that of the United States or of the State of California. It shall not be lawful for any body of men whatever, other than the regular organized National Guard of this State, and the troops of the United States, to associate themselves together as a military company or organization, to drill or parade with arms in this State, without the license of the Governor thereof, which license may at any time be revoked; *provided*, that students in educational institutions where military science is a part of the course of instruction may, with the consent of the Governor, drill and parade with arms, in public under the superintendence of their instructor; *and provided further*, that nothing herein contained shall be so construed as to prevent benevolent or social organizations from wearing swords. Any person or persons violating any of the provisions of this section shall be guilty of a misdemeanor and subject to arrest and punishment therefor.

SEC. 7. Section one thousand nine hundred and sixty-two of the Political Code is hereby amended to read as follows:

1962. The companies, troops, and batteries of the National Guard shall be composed of officers and men as follows:

1. Each company of infantry shall have not less than fifty nor more than one hundred and three officers, non-commissioned officers, and privates, which must include one commissioned officer, and may include one Captain, one First Lieutenant, one Second Lieutenant, one First Sergeant, one Quartermaster-Sergeant, four Sergeants, eight Corporals, and two musicians.

2. Each troop of cavalry shall have not less than fifty nor more than one hundred and three officers, non-commissioned officers, and privates, which must include one commissioned officer, and may include one Captain, two First Lieutenants, one Second Lieutenant, one First Sergeant, one Quartermaster-Sergeant, four Sergeants, eight Corporals, two trumpeters, two farriers, and one saddler.

3. Each foot battery shall have not less than fifty nor more than one hundred and three officers, non-commissioned officers, and privates, which must include one commissioned officer, and may include one Captain, one First Lieutenant, one Second Lieutenant, one First Sergeant, one Quartermaster-Sergeant, four Sergeants, eight Corporals, and two trumpeters.

4. Each field battery shall have not less than sixty-one nor more than one hundred and forty-nine officers, non-commissioned officers, and privates, which must include one commissioned officer, and may include one Captain, two First Lieutenants, one Second Lieutenant, one First Sergeant, one Quartermaster-Sergeant, six Sergeants, eight Corporals, two trumpeters, two farriers, and one saddler.

5. The Naval Battalion shall be commanded by a Lieutenant-Commander. Each company shall consist of one Lieutenant, one Lieutenant Junior Grade, two Ensigns, and not less than fifty nor more than one hundred petty officers and men.

6. The numerical strength, rank, titles, and insignia of rank of the companies, troops, and batteries, and their officers and men, of the National Guard shall conform to the laws, rules and regulations of the United States Army so far as the same may be effectively applicable; and upon changes being made in the said laws, rules and regulations of the United States Army, the Commander-in-Chief of the National Guard shall cause the same changes to be made in the National Guard to correspond thereto so far as they may be effectively applicable as aforesaid.

7. Each company, troop, or battery may have not to exceed ten honorary members, who shall pay fifty dollars per annum each into the company, troop, or battery treasury, and shall thereupon be entitled to all the exemptions to which men on the active list are entitled, and shall not be required to drill or perform any military duty by reason of such membership.

SEC. 8. Section one thousand nine hundred and seventy of the Political Code is hereby amended to read as follows:

1970. There must be an annual inspection and muster of the National Guard between January first and June thirtieth, each year, by brigade, regiment, battalion, or company, as may be deemed advisable by the brigade commander; and the commanding officer of each company must make out and certify the necessary muster rolls, showing the names and number of the members of the company, the officers in the order of their rank, and the privates in alphabetical order, and also a list of the ordnance, ordnance stores, clothing, and other property of the State, in the possession of the company. He must transmit, through the proper military channels, one copy of the roll and list attached to each superior headquarters.

SEC. 9. Section one thousand nine hundred and eighty of the Political Code is hereby amended so as to read as follows:

1980. There shall be mustered in and attached to the National Guard a detachment of signal men, which shall be divided into three signal corps, each to consist of not less than twenty nor more than forty men; *provided*, that each corps shall be located in its entirety at one place. Each corps of forty men shall be officered by one Captain, one First Lieutenant, three Sergeants, and four Corporals. Each corps of less than forty men shall be officered by one First Lieutenant, three Sergeants, and four Corporals. The commissioned officers shall be elected, qualify, and serve as is provided for other officers of the line.

The non-commissioned officers shall be appointed by the brigade commander upon recommendation of the brigade signal officer. The brigade signal officer shall have direct supervision of the detachment of signal corps, and the corps commander shall report to him direct. Whenever the signal corps shall be mounted in the performance of active duty, each officer and man so mounted shall receive a per diem of two dollars during the time of such service. Whenever a State appropriation shall be made for supplying horses to mounted officers and commands, the signal corps shall receive a proportionate allowance from said fund; *provided*, that mounted service is being performed by the corps at such time.

SEC. 10. Section one thousand nine hundred and eighty-three of the Political Code is hereby amended to read as follows:

1983. Regiments of cavalry and artillery shall consist of such troops, batteries, and officers as are provided for such organizations in the United States Army, when the National Guard shall contain sufficient troops or batteries to form regiments under those provisions.

SEC. 11. Section one thousand nine hundred and eighty-four is hereby amended to read as follows:

1984. The field officers of a regiment are one Colonel, one Lieutenant-Colonel, and one Major for each battalion. The field officers of a battalion, when composed of less than six companies and more than three, are one Lieutenant-Colonel and one Major; when composed of two or three companies, then one Major only. No person shall be eligible for election as a field officer unless he shall have served at least two years in the National Guard of some State; *provided*, that service in the regular or volunteer forces of the United States shall be counted as service in the National Guard.

SEC. 12. Section one thousand nine hundred and eighty-five of the Political Code is hereby amended to read as follows:

1985. Such officers are elected by the commissioned officers of the different companies comprising a regiment or battalion; and if the regiment or battalion is already formed, by all the commissioned officers thereof excepting staff officers, and they shall hold office for the term of four years. Upon application of the officers entitled to elect, the General of brigade to which such regiment or battalion is attached, or to be attached, must appoint a suitable person to preside at the election, who must give ten days' notice of his appointment, of the place of holding the election, and of the office to be filled, which notice shall be issued and promulgated as orders usually are in the command. The brigade commander may order an election for field or line officers if application is not made for an order for an election within two months after the vacancy occurs, or after the expiration of the term for which the officer was last elected.

SEC. 13. Section one thousand nine hundred and eighty-seven of the Political Code, relating to the formation of light artillery battalions in the National Guard, is hereby repealed.

SEC. 14. Section one thousand nine hundred and eighty-eight of the Political Code, relating to elections and appoint-

ments in artillery battalions in the National Guard, is hereby repealed.

SEC. 15. Section one thousand nine hundred and eighty-nine of the Political Code, relating to drills of artillery battalions in the National Guard, is hereby repealed.

SEC. 16. Section one thousand nine hundred and ninety of the Political Code is hereby amended to read as follows:

1990. The staff of a Colonel commanding a regiment consists of one Surgeon, with rank of Major; one Adjutant, with rank of Captain; one Assistant Surgeon, with rank of Captain; one Chaplain, with rank of Captain; one Battalion Adjutant for each battalion; one Quartermaster, who shall also act as Paymaster; one Commissary; one Inspector of Rifle Practice, who shall be Ordnance Officer, each with the rank of First Lieutenant; one Sergeant-Major, one Principal Musician, one Quartermaster-Sergeant, one Commissary Sergeant, one Hospital Steward, two Color Sergeants, one Battalion Sergeant-Major for each battalion, one Drum Major. All of whom shall be appointed by and hold office at the pleasure of the Colonel, or until their successors are appointed and qualified.

The staff of a Lieutenant-Colonel or Major commanding an unattached battalion consists of one Adjutant, with the rank of First Lieutenant; one Assistant Surgeon, with the rank of Captain; one Commissary, who shall also be Quartermaster; one Inspector of Rifle Practice, who shall also be Ordnance Officer, each with the rank of Second Lieutenant; one Sergeant-Major; one Commissary Sergeant, who shall also be Quartermaster-Sergeant; one Hospital Steward, and two Color Sergeants. All of whom shall be appointed by such commanding officer, and hold office at his pleasure or until their successors are appointed and qualified.

SEC. 17. A new section is hereby added to the Political Code, to be known and numbered as section one thousand nine hundred and ninety-one, and to read as follows:

1991. All Surgeons and Assistant Surgeons of the National Guard shall be of at least five years' practice in surgery prior to their appointment; all Judges-Advocate of the National Guard shall be members of the bar of the Supreme Court of the State of California; all Engineer Officers of the National Guard shall be regular civil engineers; all Chaplains shall be regularly ordained ministers.

SEC. 18. Section two thousand and three of the Political Code is hereby amended to read as follows:

2003. The National Guard of the State of California is hereby organized into three brigades, each commanded by a Brigadier-General, the limits of each brigade to be fixed by the Commander-in-Chief. Brigadier-Generals and their staff officers deprived of their office by reason of the reorganization hereby provided for, are hereby placed on the retired list with their rank.

SEC. 19. Section two thousand and four of the Political Code is hereby amended to read as follows:

2004. The three brigades of the National Guard compose a division, commanded by a Major-General.

SEC. 20. Section two thousand and five of the Political Code, relating to the attaching of new counties to brigades, is hereby repealed.

SEC. 21. Section two thousand and seven of the Political Code is hereby amended to read as follows:

2007. The staff of the Brigadier-General consists of one Assistant Adjutant-General, with the rank of Lieutenant-Colonel, who shall be chief of staff; one Engineer Officer; one Brigade Inspector; one Quartermaster, who shall act as Paymaster; one Commissary; one Judge-Advocate; one Inspector of Rifle Practice, who shall also act as Ordnance Officer, and one Signal Officer, each with the rank of Major; one Surgeon, with the rank of Lieutenant-Colonel; two Aids-de-Camp, with the rank of Captain, and two Staff Orderlies, with the rank of Sergeant-Major. All of whom shall be appointed by the Brigadier-General, and hold office at his pleasure, or until their successors are appointed and qualified.

SEC. 22. Section two thousand and twenty-two of the Political Code is hereby amended so as to read as follows:

2022. The Commander-in-Chief may annually order an encampment for discipline and drill, either by division, brigade, regiment, battalion, or unattached company; and all troops assembled and encamped under orders of the Commander-in-Chief for not less than seven days shall receive a sum equal to one dollar and twenty-five cents per day for each officer and man regularly on duty in such camp; *provided*, that the aggregate for each company of such last mentioned allowance of one dollar and twenty-five cents per day shall not exceed the sum of four hundred dollars per company; all officers and men shall receive in addition to the above allowance the actual fare to and from the place of encampment; *and provided further*, that when the division or a brigade is regularly assembled and encamped for discipline and drill for not less than seven days, then in addition to the above allowance, the Major-General, Brigadier-General, and each staff officer on the general staff, shall receive from the State the sum of one dollar and twenty-five cents per day while regularly on duty in such camp; *and provided further*, that in any camp held in pursuance of orders from the Commander-in-Chief, all mounted officers and enlisted men shall receive the sum of two dollars per day for each horse necessarily used by them at such encampment; *and provided further*, that by all officers and enlisted men of companies of the Naval Battalion such services may be performed afloat.

SEC. 23. Section two thousand and twenty-four of the Political Code is hereby amended to read as follows:

2024. All mounted commands must drill mounted at least four times each year.

SEC. 24. Section two thousand and twenty-seven of the Political Code is hereby amended to read as follows:

2027. Companies, troops, and batteries already organized may wear uniforms and equipments now in use, until supplied by the State with the service uniform and equipments; after which no uniforms and equipments other than those so supplied

shall be worn, except that a dress uniform may be worn, as provided in section one thousand nine hundred and twenty-three of this Code. No money of the State shall be used or applied to the purchase of the uniforms and equipments other than those in this section mentioned. All non-commissioned officers, musicians, and privates of a company, or of a general, brigade, regiment, or battalion staff, the members of the signal corps, and of the hospital and ambulance corps, and of regularly organized and enlisted bands (which bands shall not exceed in number twenty-five each), shall be furnished with service uniforms and equipments at the expense of the State. Such uniforms and equipments shall be issued to the division brigades, regiments, and companies, upon requisition, in such form as may be prescribed. The service uniform and equipments shall be issued to the several organizations of the National Guard upon requisition of the proper officer. The commanding officer of each organization shall be responsible for the keeping and return of all uniforms and other military property committed to his charge. Each commanding officer who shall receive uniforms and equipments, or portions of uniforms or equipments, for the use of his command, shall distribute the same to his command as he shall deem proper. The service uniform and equipments shall be furnished, as aforesaid, by a board, which is hereby provided, to consist of three commissioned officers, to be appointed by the Commander-in-Chief. This board is authorized and directed to purchase the cloth, arrange for its cutting, and also for its making, when required by the commander of any organization, and also to purchase equipments; and the bills of said board shall be audited, allowed, and paid as are other military demands. This board shall also fix the maximum price or cost of the making of each article of uniform, and shall permit, upon proper requisition of division, brigade, regiment, or unattached battalion or company, to draw the money instead of the cloth, or the cost of its making, or either, and provide itself with a corresponding number or articles of uniform; *provided*, that the bills therefor shall be audited, allowed, and paid as other military demands.

SEC. 25. Section two thousand and forty of the Political Code is hereby amended to read as follows:

**2040.** In case of the absence of the Commander-in-Chief from the Capital, or if it is impossible to immediately communicate with him, the civil or military officer making the requisition for troops may, if he deem the danger imminent, and not admitting of delay, serve a copy of such requisition, together with a statement of the Commander-in-Chief's absence, or the impossibility of immediately communicating with him, upon the division commander, or in his absence, upon the General commanding the brigade, who is authorized to exercise, with respect to calling out the troops of his division or brigade, the powers conferred in this section upon the Commander-in-Chief; but if the call is disapproved by the Commander-in-Chief, the troops so called into service must be immediately relieved from

such tour of duty. Officers and men performing duty in response to any call as provided herein, shall, upon the proper rolls being approved by the Board of Military Auditors, receive their pay therefor out of any money in the State Treasury not otherwise appropriated, and the State Controller is hereby directed to draw his warrant therefor, and the Treasurer is hereby directed to pay the same.

SEC. 26. Section two thousand and forty-eight of the Political Code is hereby amended to read as follows:

2048. Where troops are called into active service from different brigades or regiments, and the number so called are not more than sufficient to constitute one complete regiment, the Commander-in-Chief must so organize them, and must designate the particular officer to command it; or he may make such other organization of said troops as he may deem proper, and designate the officer to command.

SEC. 27. Section two thousand and seventy-six of the Political Code is hereby amended to read as follows:

2076. The following officers may appoint courts-martial:

1. The Commander-in-Chief, for the trial of general officers, retired officers, and all officers of the staff of the Commander-in-Chief.

2. The Major-General, for the trial of all staff officers of the division and brigades, and of field officers of regiments and battalions.

3. The Brigadier-General, for the trial of officers and soldiers in their respective brigades.

4. The commanding officers of regiments and unattached battalions, for the trial of all enlisted men in their respective commands. For the trial of enlisted men of regiments or battalions the commanding officers thereof may, at any time, appoint a summary court-martial, to consist of one officer, whose rank is not below that of Captain. For the trial of enlisted men of unattached companies, troops, or batteries, the brigade commander may, at any time, appoint a summary court-martial, to consist of a First Lieutenant of such company, troop, or battery.

5. The officer appointing said court shall fix the day on which it shall convene, and when convened the court may adjourn from time to time, as shall become necessary for the transaction of business; but the whole session of the court, from the day on which it shall convene until its dissolution, shall not exceed three weeks, and in case any vacancy shall happen in the court, or a new court shall be required, the officer ordering the court, or his successor in command, may fill such vacancy, or order a new court.

6. The officer constituting such court shall, before he enters on his duties as such, take the following oath: I, —, do swear (or affirm) that I will well and truly try and determine, according to evidence, all matters between the People of the State of California and any person or persons who may come before the summary court-martial to which I have been appointed. And such oath shall be taken by him before a

Justice of the Peace of the county in which he resides, or a field officer, and it shall be the duty of such Justice of the Peace or field officer to administer the oath without fee or reward.

7. Such court shall direct a non-commissioned officer, or other fit person or persons to be by him designated, to summon all delinquents and parties accused to appear before the court at a time and place to be by him appointed, which service shall be personal or by leaving such summons at the residences of such delinquents and parties accused.

8. Such non-commissioned officer, or other person or persons so designated, shall make the like returns and with like effect as commissioned and non-commissioned officers are authorized and required to make in cases of warning to a company or regimental parade, and shall be subject to the like penalties for neglect of duty.

9. The court shall be conducted in the same manner as summary courts-martial are in the service of the United States, and shall have the trial of all offenses, delinquencies, and deficiencies that occur in the regiment or battalion for which it shall have been appointed, and also of any that occur in the separate companies, troops, or batteries; and the said court shall have power to impose and direct to be levied all the fines or penalties to which enlisted men are declared to be subject by the provisions of this chapter.

10. The proceedings and sentence of any such court shall, without delay, be delivered to the officer ordering the court, who shall approve or disapprove the same within fifteen days thereafter, and shall give notice of his approval or disapproval to the President thereof; and from the sentence of any such court imposing a fine or penalty for any offense, delinquency, or deficiency, an appeal, if made within twenty days after the fine or penalty was made known to the person fined, shall be allowed to the officer ordering the court, or to his successor in command, and he may remit or mitigate such penalty or fine.

SEC. 28. Section two thousand and eighty-three of the Political Code of California is hereby amended to read as follows:

2083. Courts of Inquiry are governed by the same rules as similar courts in the Army of the United States. They shall have the same power to compel the attendance of witnesses when summoned by them, to preserve order in and about the court-room during sessions, and to punish for contempt, as Judges of the Superior Court have under the laws of this State.

SEC. 29. Section two thousand and ninety-four of the Political Code is hereby amended to read as follows:

2094. There must be audited and allowed by the Board of Military Auditors, and paid out of the appropriation for military purposes, upon the warrant of the State Controller, to the commanding officer of each infantry or artillery company of the National Guard, the sum of one hundred dollars per month; to the commanding officer of each light battery having not less than four guns, with which they regularly drill and parade, and to the commanding officer of each troop of cavalry,

the sum of two hundred dollars per month; and to the commanding officer of each company of the Naval Battalion, the sum of one hundred dollars per month; the sum so paid to be used for armory rent, care of arms, and proper incidental expenses of the company. There must also be audited, allowed, and paid out of the same appropriations, to the commanding officer of each regiment or battalion, the sum of five dollars per month for each company in his command for clerical expenses, stationery, printing, and postage; and if the regiment or battalion has more than four companies, and has attached to it an organized and uniformed band of not less than twenty people, the additional sum of thirty-five dollars per month for such band; to the Major-General, four hundred dollars per annum; to the Brigadier-General of each brigade, three dollars per month for each company in his brigade, and to each company a sum necessary for uniforms, and to keep the same in repair, not to exceed one hundred and fifty dollars per annum; and to the Adjutant-General, four thousand dollars per annum, to be expended by him in promoting rifle practice. There shall also be paid from the military appropriations of the State a sum not exceeding five hundred dollars for the first year of its existence, to the Brigadier-Generals for a hospital and ambulance corps in their respective brigades, which sum shall be expended in the purchasing of proper supplies, equipments, and medicines for such corps; and thereafter to such corps there shall be paid a sum, for the same purpose, of not exceeding five hundred dollars per annum.

SEC. 30. This Act shall take effect immediately.

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## CHAPTER CLXIX.

*An Act to provide for the letting of contracts for lighting of streets and public buildings in cities and towns in the State of California.*

[Approved March 26, 1895.]

*The People of the State of California, represented in the Senate and Assembly, do enact as follows:*

SECTION 1. Before any city or town in the State of California shall enter into any contract for the lighting of its streets, or public buildings, or other public places, the City Council, or Trustees, or other governing body of such city or town, shall advertise for bids for such lighting, and cause a notice to be posted in three public places in the city or town, inviting sealed proposals for doing such lighting, referring to the specifications posted or on file. The advertisement for bids shall be published for ten days, in the newspaper designated by such city or town as its official paper, in which other legal notices, orders, and ordinances are required to be published, if there be any such official paper; but if there be no such official paper, then such advertisements for bids shall be published in any news-

paper of general circulation designated by such City Council, Trustees, or other governing body.

SEC. 2. All contracts for the lighting of streets, public buildings, and other public places, after bids have been advertised for and notice given, as provided in section one of this Act, shall be let to the lowest responsible bidder. The City Council, Trustees, or other governing body of such city or town may reject any and all the bids.

SEC. 3. Each bid shall be accompanied by a check, payable to the order of the Mayor or President, or other chief officer of such city or town, and certified by a responsible bank, for at least ten per cent of the amount of the bid, or by a bond for said amount, signed by the bidder and two sureties, who shall qualify under oath in double said amount, over and above all statutory exemptions. Said bids shall be delivered in a sealed envelope to the Clerk of said City Council, Trustees, or other governing body, and said City Council, Trustees, or other governing body shall, in open session, open said bids, examine, and publicly declare the same. If none of said bids are accepted, a re-advertisement and notice for bids for such lighting shall then be had as provided for in the first instance. If any of said bids are accepted, then such City Council, Trustees, or other governing body of such city or town, shall enter into a contract with the bidder whose bid is accepted, to do such lighting, which contract shall embody the specifications and terms for such lighting placed on file before any bids are advertised for. But no contract shall be made for a longer period than one year, and every such contract shall go into effect within six months after the bid is approved. Any check or bond accompanying any unaccepted bid shall be returned to the party furnishing the same, when his bid is rejected; any check or bond accompanying any accepted bid shall be retained by the Clerk till the successful bidder shall have entered into a contract as herein provided, and then be returned to said bidder; but if such bidder shall refuse to enter into such contract, his check or bond shall be declared forfeited to such city or town, and shall be collected and paid into the General Fund thereof.

SEC. 4. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CLXX.

*An Act to amend section seven hundred and thirty-one of the Penal Code of the State of California, and to add a new section thereto, to be known as section seven hundred and thirty-four, relating to the suppression of riots and parading of independent companies.*

[Approved March 26, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred and thirty-one of the Penal Code of California is hereby amended to read as follows:

731. Whenever any portion of the National Guard or enrolled militia shall have been called into active service to suppress an insurrection or rebellion, to disperse a mob, or to enforce the execution of the laws of the State or of the United States, the commanding officer shall use his own discretion with respect to the propriety of attacking or firing upon any mob or unlawful assembly; and his honest and reasonable judgment in the exercise of his duty shall be full protection, civilly and criminally, for any act or acts done while on duty. No officer who has been called out to sustain the civil authorities shall, under any pretense, or in compliance with any order, fire blank cartridges upon any mob or unlawful assemblage, under penalty of being cashiered by sentence of a court-martial.

SEC. 2. A new section is hereby added, to be numbered and known as section seven hundred and thirty-four:

734. It shall not be lawful for any body of men whatever, other than the regular organized National Guard of this State, and the troops of the United States, to associate themselves together as a military company or organization, to drill or parade with arms in any city or town of this State, without the license of the Governor thereof, which license may at any time be revoked; *and provided further*, that students in educational institutions where military science is a part of the course of instruction may, with the consent of the Governor, drill and parade with arms in public under the superintendence of their instructor; *provided*, that nothing herein contained shall be construed so as to prevent benevolent or social organizations from wearing swords. And any person or persons violating any of the provisions of this section shall be guilty of a misdemeanor, and subject to arrest and punishment therefor.

SEC. 3. This Act shall take effect immediately.

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### CHAPTER CLXXIII.

*An Act to amend section twenty-eight hundred of the Political Code, relating to the purchase of toll roads by counties.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section twenty-eight hundred of the Political Code of the State of California, approved March twelfth, eighteen hundred and seventy-two, is hereby amended so as to read as follows:

2800. At any time within five years from filing the certificate of completion of any road constructed under the provisions of this chapter, or at any time after any toll road constructed and under operation under any of the laws of this State has been in existence for ten or more years, a county within which the

road or any portion thereof is located, may purchase the same at a fair cash valuation, to be fixed by seven commissioners, all disinterested persons; three to be appointed by the Board of Supervisors of the county, three by the owner of the road, and one by the Judge of the Superior Court of the county, who must estimate the fair cash value of the road, and make report thereof, under oath, to the Board of Supervisors. If, within three months after filing the report, the appraised value thereof is tendered on behalf of the county to the owner of the road, or his authorized managing agent, in gold coin, the right of the owner to take tolls on the road is terminated, and the road to become the property of the county.

SEC. 2. This Act shall take effect and be in force from and after its passage.

#### CHAPTER CLXXIV.

*An Act to provide for the issuing of bonds by reclamation districts, and the disposal thereof for reclamation and other purposes, and their payment by taxation upon the property situated in such reclamation districts.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Whenever in the opinion of the Board of Trustees of any reclamation district now formed, or hereafter to be formed, under any law of this State, the cost of the works of reclamation according to the plans thereof will be too great to be raised by assessments as provided in the Political Code, said Board of Trustees shall order a special election to be held at some place in said district to be designated by said Board of Trustees, at which said special election shall be submitted to the owners of land in said district the question whether or not the bonds of said district shall be issued in an amount necessary to construct said works of reclamation, which said amount shall be estimated by said Board of Trustees, and stated in the order for such special election.

SEC. 2. Notice of such special election must be given by the Board of Trustees by posting notices thereof in at least three public places in the district, at least twenty days prior thereto, and also by publication for the same time in some newspaper published in each county in which any portion of said district may be situated, if there be a newspaper published in each of such counties, and if there is no newspaper so published, then by such publication in each county in which there is a newspaper published, and such notice must specify the time and place of holding such election, the amount of bonds proposed to be issued, and the names of three land-holders of the district to act as a Board of Election.

SEC. 3. At such election each holder of lands in the district shall be entitled to vote in person or by proxy, and shall have

the right to cast one vote for each dollar's worth of real estate owned by him in the district, the value thereof to be determined from the next preceding assessment roll of the county where the same is situated; and the Board of Trustees of the district shall, prior to the election, procure from the Assessor of each county where any portion of the district is situated, a list, certified by such Assessor, containing a description of all the land of the district situated in such county, the name of the person to whom each tract is assessed, and the value thereof as appears from the assessment roll of said county, which said list shall be furnished to and be used by the said Board of Election in determining the number of votes each voter is entitled to cast. No person shall vote by proxy at such election, unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified as grants of real property, and filed with the Board of Election. The ballots cast at such election shall contain the words "Bonds—Yes," or the words "Bonds—No," and also the name of the person casting the ballot, with the number of votes cast by him; and a list of the ballots cast shall be made by the Board of Election, containing the name of the voter, and if the ballot be cast by proxy the name of the person casting it, the number of votes cast, and whether the same be cast for or against the issuing of the bonds.

SEC. 4. If the persons, or any of them, appointed and specified in the notice of election as the Board of Election fail to attend at the time and place appointed for the election, the voters present at the time for opening the polls may appoint any land-holder of the district then present to fill the place of any absent member thereof. Each member of such Board of Election must, before entering upon his duties as such, take an official oath as such member of the Board of Election, which said oath may be administered by any officer authorized to administer oaths, or by any land-holder in the district. The polls shall be kept open for the reception of votes from ten o'clock A. M. until four o'clock P. M. At the close of the polls the Board of Election shall at once proceed to canvass the votes, and declare the result and forward a certificate, showing the number of votes cast for and against the issuing of bonds, to the Board of Supervisors of the county where the district was formed, and deliver a duplicate thereof to the Board of Trustees of the district, and shall also deliver to the said Board of Trustees all ballots cast at such election, and all documents and papers used at such election.

SEC. 5. If a majority of the votes cast at such election are in favor of the issuance of bonds, the Board of Trustees of the district shall cause bonds in the amount stated in the order for election to be issued and placed in the custody of the Treasurer of the county in which the district was formed. Said bonds shall be of the denomination of one hundred dollars each, shall be negotiable in form, signed by the President of the Board of Trustees of the district, and the Chairman of the Board of Supervisors of said county, and attested by the Clerk

of said Board of Supervisors, and the seal of said Board of Supervisors, shall be numbered consecutively as issued, and bear date at the time of their issue, and shall express on their face that they were issued by authority of this Act, stating its title and date of approval, and the date of the election at which their issuance was authorized. Said bonds shall bear interest at the rate of seven per cent per annum, payable semi-annually on the first day of January and the first day of July in each year, at the office of said County Treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds, and shall be numbered, signed, and attested, in the same manner as the bond. The principal of said bonds shall be paid as follows, to wit: Ten per cent of the whole amount of bonds issued, according to their consecutive numbers, shall be paid in ten years from the date of their issue, at the office of said County Treasurer, and ten per cent thereof each succeeding year thereafter, until all are paid. If any bond shall not be presented for payment when the same becomes due, it shall cease to draw interest; but if presented at such time, and not paid for want of funds, the said County Treasurer shall so indorse it, and thereafter such bond shall draw interest until paid, at said rate of seven per cent per annum, payable semi-annually.

SEC. 6. The Treasurer of said county shall place the bonds prepared pursuant to this Act to the credit of said district, and may at any time sell any of said bonds for the best price obtainable therefor, but in no event for less than the face value of said bond, and the accrued interest thereon. Any money derived from the sale of said bonds by said County Treasurer shall be placed in the treasury to the credit of said district, and a proper record of such transaction be placed upon the books of said Treasurer.

SEC. 7. The Board of Trustees of said district may draw orders upon the said County Treasurer, payable in bonds or money in the proportion and to the amount therein named, to pay for labor or services performed for, or materials or property furnished to, said district, for the purpose of constructing the reclamation works thereof, and the expenses necessarily incident to maintaining the same, and the contingent expenses of said district, which said orders shall be approved by the Board of Supervisors of the county where such district was formed, and thereafter be paid by said Treasurer in the manner therein provided for, if such bonds or money then remaining in said treasury to the credit of said district be sufficient to pay the same.

SEC. 8. The principal of said bonds, and the interest thereon, shall be paid by revenue derived from a tax levied upon the assessable real property of the district, and the Board of Supervisors of the county wherein said district was formed, at the time of making the levy of taxes for county purposes, must levy a tax for that year, upon the taxable real property in such district, sufficient to pay the interest which may become due

upon said bonds during such year, and if any portion of the principal of said bonds will become due during such year, then also in an amount sufficient to pay such portion of said principal. All taxes so levied shall be computed and entered on the assessment roll of the county where such land may be situated, by the County Auditor, and collected by the Tax Collector, at the same time and in the same manner as State and county taxes, and when collected shall be paid into the County Treasury for the use of said district.

SEC. 9. When such district is situated partly in different counties, the Assessor of said county, or counties, other than the county where the district was formed, and in which any portion of such district may be situated, shall, prior to the time when the Board of Supervisors meets to make the levy for county purposes in each year, certify to the Board of Supervisors of the county where such district was formed, a statement of the total value of all the taxable real property of said district, situated in his county; and when such Board of Supervisors shall have determined the rate of taxation necessary to be levied upon such property, the Clerk of said Board of Supervisors shall certify the same, under the seal of said Board, to the Auditor of any county other than the county where such district was formed, and such Auditor shall thereupon compute the tax, and enter the same upon the assessment roll of said county. When any taxes shall have been collected under any of the provisions of this Act, and placed in the treasury of any county other than the one in which said district was formed, the Treasurer of such county must, when requested so to do by the Board of Trustees of said district, forward all money in such treasury to the County Treasurer of the county in which such district was formed, who shall receive and receipt for the same, and place such money in the treasury of such county to the credit of said district.

SEC. 10. No Assessor, Tax Collector, Treasurer, or Clerk shall receive any fee for any service required to be performed by them under the provisions of this Act. All expenses necessarily incurred in carrying out the provisions of this Act shall be paid out of any money to the credit of the district for which the services are performed, in the treasury of the county where the district was formed, upon the order of the Board of Trustees of said district, approved by the Board of Supervisors of said county.

SEC. 11. This Act shall take effect and be in force from and after its passage.

## CHAPTER CLXXV.

*An Act to add a new section to the Political Code, to be known and designated as section three thousand and twenty-two and one half, relating to the erection, furnishing, maintenance, and government of hospitals and homes for inebrates in counties, and cities and counties, of this State, where land has heretofore been reserved and set apart for said purpose; to provide for the commitment of dipsomaniacs and inebrates thereto; and also to repeal an Act entitled "An Act relating to the Home of the Inebriate of San Francisco, and to prescribe the powers and duties of the Board of Managers and the officers thereof," approved April 1, 1870, and all Acts and parts of Acts in conflict with the provisions of this Act.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is hereby added to the Political Code, to be known and designated as section three thousand and twenty-two and one half:

3022½. *First*—The Board of Supervisors of any county, or city and county, where land has heretofore been reserved, set apart, and designated by said Board of Supervisors, or a committee of said Board, for public use as a Home for Inebriates, shall cause to be erected, before August first, one thousand eight hundred and ninety-six, a suitable hospital and home for the care and treatment of dipsomaniacs and inebrates, and provide for the furnishing and maintenance of the same. The plans of construction of said hospital and home must be drawn under the direction of the Board of Health of said county, or city and county.

*Second*—When the building or buildings constructed under the provisions of this section are so far completed that in the opinion of the Board of Health of said county, or city and county, commitments may properly be made thereto, said Board of Health shall so notify the magistrates of the said county, or city and county; and thereafter the said magistrates may commit to said hospital and home, for a term not exceeding one year, any person given to dipsomania or inebrity, whether in public or private, and who, in his opinion, is a proper subject for its treatment or custody; *provided, however*, that no such person shall be so committed until satisfactory evidence shall be furnished to the magistrate before whom the proceedings for commitment are had, that such person or persons are not of bad repute or of bad character, apart from their habits of inebrity; and in all proceedings relative to the commitment of any such person, it shall be specifically alleged that they are either dipsomaniacs or inebrates, as the case may be.

*Third*—When it shall appear to the Medical Superintendent and the said Board of Health that any person or persons held

in said hospital and home will not continue to be subject to dipsomania or inebriety, or will be sufficiently provided for by themselves or their guardians, relatives, or friends, they may issue to them a permit to be at liberty, upon such conditions as they may deem best, and they may revoke said permit at any time previous to its expiration. The violation, by the holder of such permit, of any of the terms or conditions of the same, shall of itself make said permit void. When a permit becomes void in any manner the Medical Superintendent, or a member of the Board of Health, may issue an order authorizing the arrest of the holder or holders of such permit and their return to the hospital and home, and such order of arrest may be served by any officer authorized to serve criminal process in any county, or city and county, of this State. Any person at liberty from the hospital and home upon a permit, as aforesaid, may voluntarily return to the hospital and home and put himself in the custody of the Medical Superintendent. The holder of said permit, when returned to said hospital and home, as aforesaid, whether voluntarily or otherwise, shall be detained therein according to the term of his original commitment. Such inmates of said hospital and home as are able to pay for their board shall be charged for the same.

*Fourth*—The Board of Health of said county, or city and county, shall provide for the management and government of said hospital and home for dipsomaniacs and inebriates. The said Board of Health must appoint a Medical Superintendent of said hospital and home, and furnish or supply the same with nurses and attachés. The Medical Superintendent shall be an elector of the county, or city and county, a regular graduate of medicine, licensed to practice, and not less than thirty-five years of age, who shall have for a period of at least one year prior to his appointment, devoted his special professional attention to the treatment of dipsomania and inebriety as physician to a public or private home, hospital, asylum, or sanitarium for the care and treatment of dipsomaniacs and inebriates. The Medical Superintendent shall receive an annual salary of three thousand dollars, and shall be paid in equal monthly installments out of the General Fund of said county, or city and county, in the same manner as the salaries of the other officers of said county, or city and county, are paid. Said Medical Superintendent shall not be removed by the said Board of Health except for good cause, duly set forth in a complaint, filed with the Secretary of said Board, a copy of which must be served upon said Medical Superintendent, and an opportunity given him to be heard in his defense.

SEC. 2. The Act entitled "An Act relating to the Home of the Inebriate of San Francisco, and to prescribe the powers and duties of the Board of Managers and the officers thereof," approved April first, one thousand eight hundred and seventy, and all Acts or parts of Acts in conflict with provisions of this Act, are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage.

## CHAPTER CLXXVI.

*An Act to amend section one of an Act approved March 15, 1883, and entitled "An Act to authorize the Common Council, Board of Trustees, or other governing body of any incorporated city or town, other than cities of the first class, to re-fund its indebtedness, issue bonds therefor, and provide for the payment of the same," as amended March 1, 1893.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one of the above entitled Act is hereby amended to read as follows:

Section 1. That whenever any incorporated city or town, other than cities of the first class, in this State, has an outstanding indebtedness, evidenced by the principal of bonds, the Common Council, Board of Trustees, or other governing body thereof, is empowered, by a vote of four fifths of its number, to re-fund the same, and issue the bonds of such city or town therefor; *provided*, that no indebtedness shall be re-refunded at a higher rate of interest than the original indebtedness bore. Such bonds shall be of the character known as "serials," not less than one fortieth of principal being payable each year, together with interest due on all sums unpaid. Such bonds may be issued in denominations not to exceed one thousand dollars, and not less than one hundred dollars; principal and interest payable in either gold coin or other lawful money of the United States, as may be expressed in said bonds, either at the office of the Treasurer of said city or town, or at the bank designated in said bond, situated in the city of San Francisco, New York, Boston, or Chicago. Interest on said bonds shall not exceed six per cent per annum, payable annually or semi-annually, as may be expressed in said bonds. Said bonds shall not be disposed of in any manner except in exchange for outstanding bonds for the re-funding of which they are authorized to be issued; *provided*, that if any holder of any such outstanding bonds refuses to exchange any bonds held by him for such re-funding bonds, but will deposit such outstanding bonds held by him with any responsible depository subject to redemption in money, a sufficient number of such re-funding bonds may be sold in a manner provided by such City Council, or other governing body, to the highest bidder, for not less than the face value thereof; the proceeds of such sale shall be placed in the treasury of said municipality to the credit of the Re-funding Fund, and shall be applied only for the purpose of re-funding the outstanding bonds for the re-funding of which they have been issued. Said Trustees or other governing body shall, at the time of fixing the general tax levy for each year, and in the same manner as such tax levy is made, levy and collect annually, each year, sufficient money to pay one fortieth

part of the principal of bonds issued under the terms of the provisions under which such re-funding bonds are authorized to be issued, and also the annual interest upon the portion remaining unpaid.

SEC. 2. This Act shall take effect and be in force immediately after its passage.

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## CHAPTER CLXXVII.

*An Act fixing and regulating the manner of sale and redemption of real property for delinquent assessments to pay the damages, costs, and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in any part, any street, square, lane, alley, court, or place within municipalities in this State.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. All sales, and redemptions after sale, of any real property upon which the assessment levied and assessed to pay the damages, costs, and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, constructing, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities in this State, shall remain unpaid and become delinquent under the provisions of any Act or law regulating such matters, shall be made and had in the same time and manner as such sales and redemption were required by law to be made and had on the first day of January, Anno Domini eighteen hundred and ninety-five.

SEC. 2. All Acts or parts of Acts in conflict with this Act are hereby repealed.

SEC. 3. This Act shall take effect and be in force from and after its passage and approval.

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## CHAPTER CLXXXI.

*An Act providing for a general primary election in counties of certain classes within the State of California, and to promote the purity thereof by regulating the conduct thereof, and to support the privileges of free suffrage thereat, by prohibiting certain acts and practices in relation thereto, and providing for the punishment thereof.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The primary elections for delegates to constitute the various respective political conventions for the nomination

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of candidates for public office shall hereafter be held in this State under and pursuant to this Act. A convention to nominate candidates to be voted for by the electors of the entire State shall be known as a "State Convention." Conventions to nominate members of Congress, of the Board of Equalization, or Railroad Commissioners shall be known as "District Conventions." All other conventions shall be known as "Local Conventions."

A general primary election for the election of delegates to the State and various local and district conventions in the year eighteen hundred and ninety-six, and every two years thereafter, shall be held on the second Tuesday in the month of July in that year. The day for holding such primary shall be a legal holiday, and the Governor of this State shall issue a proclamation to that effect in accordance with this Act.

SEC. 2. All political parties or organizations of electors, desiring to hold a convention or conventions for the purpose of nominating candidates for public office, to be voted for at the ensuing general election, must petition the Board of Election Commissioners of the county, or city and county, in writing, at least thirty days before the day for such general primary election, which petition must set forth:

*First*—The names by which such political party or organization is known, or desires to be known.

*Second*—That such political party or organization is desirous of and intends to hold a convention, or conventions, of delegates representing said party or organization—designating the time and place of holding any such convention, or conventions—for the purpose of nominating candidates for offices to be voted for by the people of the State or county, or city and county, or both, at the next ensuing general election, and is desirous of electing delegates to such convention, or conventions, to be held for that purpose, under the provisions of this Act, and requesting that the Board of Election Commissioners of the county, city or county, perform the services hereinafter prescribed in this Act.

If such political party is one which by reason of its previous vote is entitled to hold a convention defined by sections eleven hundred and eighty-six and eleven hundred and eighty-seven of the Political Code, such petition must be authenticated by the signature of the Chairman and Secretary of its State Committee, selected at its last State convention of such party, verified by the oath of such signers that the facts therein stated are true, and that the said signers are the Chairman and Secretary of said committee. No political party or organization can use the name of another political party or organization, or any name or designation so similar to another party name that it may deceive voters.

SEC. 3. Any political party or political organization which, at the last election preceding the filing of such application, shall not have polled at least three per cent of the entire vote cast in the political division for which nominations are sought to be made, may file with the Election Commissioners of the

county, or city and county, in which such general primary election is to be held, a petition, signed by at least three per cent of the voters of the political division for which nominations are sought to be made, which need not all be on one paper; which petition shall set out all the facts required to be set forth in the application in this Act provided for; and such petition must be verified in the same manner as required for a certificate of nomination mentioned in section eleven hundred and eighty-eight of the Political Code. Upon the filing of such petition, the Election Commissioners of the county, or city and county, in which said primary election is to be held, shall order its Clerk to issue to said political organization a certificate similar to that in this Act provided to be issued to existing political parties, which certificate shall entitle the petitioners to participate in the said general primary election, and shall entitle them to all privileges and rights secured and granted to other political parties heretofore existing, both at said primary election and at the ensuing general election; that is to say, having complied with all the requirements in this Act provided, the petitioners shall be recognized as a political party or organization. Such certificate shall be issued to all parties petitioning, stating the name of the party, the date of the primary, the territory over which it will extend, and be signed by the Clerk of such Board.

SEC. 4. During the month of January of each year in which a general election is to be held, it shall be the duty of the Board of Election Commissioners of each county, and city, and city and county to select from the last assessment roll of the county, or city, or city and county, the names of not less than thirty electors residing in each election precinct of such county, or city, or city and county; such selection to be made from each of the political parties then existing, in as nearly an equal proportion as practicable; and to write the name of each person so selected on a separate piece of paper, and to fold said paper so that the name written thereon cannot be seen or read without unfolding the same; and when the names are so written and folded, to put all of the names so selected from each separate election precinct in an envelope, then to close and securely seal such envelope, and to write the name and number of the precinct from which such selection was made on the outside of such envelope; and when the names so selected from each election precinct in such county, or city, or city and county, shall have been so placed in separate precinct envelopes, and each sealed and numbered so as to designate the precinct from which each selection was so made, then all of the said envelopes so marked and sealed shall be placed in a box, to be provided by each Board of Election Commissioners for that purpose, and such box shall then be securely locked and sealed, and safely kept by said Board of Election Commissioners until required by them for use as hereinafter provided. The names so selected shall be forthwith recorded in a book for that purpose by the Clerk of the Board of Election Commissioners, which book must be kept open at all times to public inspection, and the

said Clerk shall also publish said names once in some paper of general circulation in the county, or city and county, within ten days after the names are so selected.

SEC. 5. Twenty days before the holding of such primary election the said Board of Election Commissioners shall open the said box in the presence of a majority of said Board, and in the presence of each of the members of the various political parties as may be present to witness the same, and shall then take from said box the said envelopes, one at a time, and as each envelope is taken from the box it shall be opened and the names therein contained, without being unfolded, shall be placed in a separate box suitable for the purpose; and, after being thoroughly shaken, the Clerk of said Board, in the presence of the Board, shall draw from said box the name of one person, who shall be the Inspector of the primary election in such precinct; said Clerk shall then draw from said box the names of two persons, who shall be the Judges of such primary election in said precinct; and the names of two other persons shall be drawn in like manner, who shall be the Clerks of such primary election; *provided*, that if the persons whose names are drawn for Judges and for Clerks shall both belong to one political party the Clerk of said Board shall lay aside the last name drawn for Judges, and also for Clerks, and draw other names from such box until only one Judge and one Clerk who belong to the same political party are selected; and the same course shall be pursued in each precinct until the election officers are selected in each precinct in such county, or city, or city and county. Should all the names be drawn from said box and not a sufficient number of election officers be selected, the said Board of Election Commissioners must select and deposit more names in the box, and continue to draw therefrom until all the election officers are selected; *provided*, that such subsequent selection shall be made from the electors of the precinct in the same manner as those first selected, as provided for in section four of this Act.

SEC. 6. It shall be the duty of the Clerk of the Board of Election Commissioners to publish in some newspaper published in the county, of general circulation, as soon as they are selected, the names of the persons so selected, with the names of the precincts in which they severally are to serve, and the locations of the polling places. He shall also send a communication to each person so chosen, through the mail, by registered letter, postage paid, to his post office address, informing him of his selection, and of the precinct, and the capacity in which he is to serve.

SEC. 7. It shall be the duty of every person so chosen to act as such election officer at such a general primary election, to perform the services required of him in such capacity; and any person so chosen to act who shall, without having been excused therefrom by the Board of Election Commissioners for sickness of self or family, or other good cause, fail or refuse to act in the capacity for which he is chosen, shall be deemed guilty of a misdemeanor; and in case he is so excused, the Clerk, in the

presence of the Board, shall select another person from said box to serve in his place. It shall be the duty of each of the persons so chosen to appear at the polling places in the precinct for which he is chosen, before the time of opening the polls, and there take the oath of office, as prescribed in the general election law, and perform the duties imposed upon him by the provisions of this Act. But in case of the failure of any of the election officers so selected to appear at the time the polls should be opened, or within ten minutes thereafter, the election officers present must choose some resident elector of the precinct to fill the vacancy. All persons serving as officers of election at a primary election held under the provisions of this Act, shall be exempt from jury duty for the term of one year thereafter, and such person shall receive from the Board of Election Commissioners of the county, or city, or city and county, in which such service is rendered, a certificate, setting forth the fact of such service as an officer of a primary election, stating the time of service; and such certificate, on being presented to a Court in which such election officer has been summoned to appear as a juror, shall be deemed sufficient to excuse the person named therein from service as a juror at any time within one year from the date of service named in such certificate.

SEC. 8. It shall be the duty of the Board of Election Commissioners of the county, or city and county, to furnish ballot-boxes for each precinct where such primary is to be held, of the kind and character which were required to be used at the general election held in this State in the year eighteen hundred and ninety, and there must be furnished as many separate ballot-boxes at each precinct as there are parties or organizations entitled by law to participate in such primary. Each such ballot-box must have, in distinct letters and words, upon the front of such box, the name of the respective political party or organization for whose use it is intended. All the ballot-boxes must be placed in a row, side by side, fronting so that the front of each box shall be in the same direction, and be where the voters can easily approach such boxes and present their ballots, and the said party name on each box must be on the front of each, so as to be easily seen and distinguished by any voter within six feet of such box. Every person desiring to vote at such primary must deposit one ballot only, upon which must be the names of all delegates for whom he desires to vote; and it shall be the duty of the Clerk of the Board of Election Commissioners of the county, or city and county, in which said general primary election is to be held, to designate in the certificate which is in this Act provided to be furnished to political parties, the color of the paper upon which the ballots are to be printed, and there shall be so designated for each political party participating in said general primary election, a color to be by them used for the paper upon which such ballots are to be printed, which color shall be in each case distinctive and easily distinguishable from the color to be used at said primary election by any other political party; and the name or designation of each political party must be

plainly written or printed at the head of each ticket. The election officers shall stand behind the ballot-boxes, and as each voter approaches to vote, when it is ascertained that he is entitled to vote, he shall be asked by the proper election officer in what box he desires to cast his ballot, and when the voter has declared the fact, it shall be noted in the register by the Clerk in which box he votes, by writing in the register opposite his name the name on the box in which he votes, and thereupon his ballot shall be received by the Judge of Election or Inspector and deposited in the box named by such voter, and in no other, in the presence of the voter.

SEC. 9. There shall be as many polling places for the purpose of such general primary election as are provided for at a general election; that is, a polling place in each precinct; and each political party may file with the Board of Election Commissioners a list of the precincts and number and name of street or locality in town, or township, where they want such polling places, and it shall be the duty of the Board of Election Commissioners to examine said lists and decide which polling places will be the most convenient for the voters of the precinct. The polls shall be kept open from nine o'clock A. M. to sunset on the day of holding said primary election, and shall be at all times kept open to the public during the reception of ballots, and until the same are counted and the results declared. There must be furnished, by the Board of Election Commissioners, to the election officers in each precinct, for use at such primary election, a register containing the names of each person entitled to vote in such precinct at the last preceding general election, as shown by the Great or Precinct Register, or both. Before receiving any ballots the election officers must, in the presence of any persons assembled at the polling place, open, and exhibit, and close the ballot-boxes, and thereafter neither of them must be removed from the polling place or presence of the bystanders until all the ballots are counted, nor must either box be opened until after the polls are finally closed. Before the election officers receive any ballots they must cause it to be proclaimed aloud at the place of such primary election that the polls are open, and when the polls are closed that fact must be proclaimed aloud at the place of such election; and after such proclamation no ballots must be received. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain open. The ballots must be so folded when deposited that no person can see any name printed or written thereon. As soon as the polls are finally closed, the election officers must immediately proceed to count and canvass the votes given at such primary election. The canvass must be public, in the presence of the bystanders, and every political party shall be entitled to have at least two representatives present. The canvass must be continued without adjournment until completed and the result thereof is declared; but one box shall be opened and canvassed at the same time, and no other box shall be opened until such box being canvassed is completed and the result

written out and certified and declared. Except as herein otherwise provided, said votes shall be counted, canvassed, listed, strung, numbered, tallied, in the same manner required by law for the counting, canvassing, listing, stringing, numbering, and tallying of votes at a general election for public officers, and the tally lists, ballots, and registers must be signed, certified, made up, sealed, delivered, preserved, and kept in the same manner as required by law at a general election for public officers.

SEC. 10. When the counting of the ballots is completed the election officers in each such precinct shall officially declare the result, and shall furnish to the candidates having received a plurality of all the votes cast in such precincts for delegates to each political party to the county or district conventions, when a delegate is to represent a precinct, a certificate, which certificate shall be signed by all of the precinct election officers, and be delivered by them to the successful candidate; and such certificate, when so delivered, shall be the only credential required of any delegate to the party convention to which he was elected. They shall canvass the votes of all delegates to the State convention, and when it requires more votes to elect than those of one precinct, they shall certify the result of the ballot in such precinct to the Clerk of the Board of Election Commissioners, and shall seal up the ballots cast in such precinct and the poll lists, and on the outside of the envelope so sealed the election officers of each precinct shall write and sign a certificate to the effect that it contains all the ballots cast in such precinct and the poll lists kept by the Clerks. They shall also, in a separate envelope, send a certificate of the number of votes cast for each delegate to the State convention, and to the county convention, when it takes the votes of more than one precinct to elect a delegate, and said County Clerk shall safely keep such ballots and poll lists until the adjournment of all political conventions in that year, when he shall destroy the same. In case it requires more votes than is cast in one precinct to elect a delegate to the county or State convention, the Clerk shall canvass the votes of the precincts voting for such delegates, as returned by the precinct officers, and issue a certificate of election to the several persons receiving a plurality of the votes of his party in such precincts as are within the county.

SEC. 11. The governing body in the county of each political party taking part in such primary election may furnish to the Board of Election Commissioners, prior to or at the time of the selection by the said Board of the election officers, the name of an elector in each precinct whom such party is desirous to have appointed as general challenger for such party. It shall be the duty of such Board of Election Commissioners, finding that the person named is a resident of such precinct, and that his name appears on the last Precinct Register of said precinct, to appoint such person as such challenger, and cause a certificate to that effect, under its seal, to issue to such person, which the said Clerk shall transmit to such person, in the same manner

as provided in this Act for transmitting the certificates to the election officers. At any time after that, and as soon as the third day before the election, any body of resident voters of any precinct, not less than the number of delegates of said party to be elected in said precinct, may file a petition with the Board of Commissioners, setting forth that it is their intention to run as candidates at such primary election, and requesting the appointment of some person as a special challenger to act on their behalf, and naming such person. It shall thereupon be the duty of said Board to ascertain if such person has the qualifications hereinbefore provided, and if so, to appoint such person, and cause a like certificate to be issued to him. Such challengers shall act without compensation when so appointed, and shall be sworn, the same as an election officer, and shall have power to challenge the vote of any person by him believed to be voting unlawfully, upon any ground mentioned in the general election law; and such challengers, during the progress of any such primary election, shall be vested with all the powers of a peace officer; he shall have free access to such polling place during the election and the counting of the ballots.

SEC. 12. Any person who, at any such primary election, shall vote illegally or attempt so to vote, shall be subject to the same punishment as provided by law in case of such voting or attempting to vote at the general election in this State. No person shall be allowed to vote whose name did not appear upon the Great or the Precinct Register of the county, in the precinct in which he desires to vote, at the last general election, as a person entitled to vote in such precinct. If the election officers at such primary election shall knowingly permit any person to vote after being challenged, who shows, by his examination, that he is not entitled to vote, they shall be guilty of a felony, and upon conviction thereof be imprisoned in State's Prison not less than one nor more than five years.

SEC. 13. The primary elections for all political parties or organizations within the State shall be held at the same time under the provisions of this Act. Each political party or organization may determine for itself how many district conventions it will hold for nominating its various candidates; *provided*, all candidates which are to be elected within a given territory must be nominated in the same convention. Delegates to a State convention may, at the option of a party, divide themselves into district conventions to nominate members of Congress, of the Board of Equalization, and Railroad Commissioners, respectively, or any party may, at its option, select separate delegates to compose any or all such district conventions.

The delegates to a county, or city and county convention must nominate all the candidates which it desires to name for a county or city and county office, in such county or city and county, and any party may at its option nominate candidates for State Senator, or Assemblyman, or Supervisors, or Justices of the Peace, or Constable, who are to be voted for in such county, or city and county, or in any part of such county, or

city and county; or any party may at its option elect separate delegates to compose any senatorial, assembly, or other local convention. Where any assembly or senatorial district is composed of more than one county, any political party may select separate delegates to a separate convention, to nominate such Assemblyman or Senator, or it may, at its option, in any county convention select joint delegates to meet joint delegates from any other part of such senatorial or assembly district to compose a convention to nominate such Assemblyman or State Senator.

Every party shall cause to be printed or written upon the ballots used by it in the general primary election, the different sets of delegates it desires to choose at such primary, and each set of delegates must be separated distinctly from every other set named on the ballot, and over each separate set of delegates must be printed or written the designation of the convention to which the delegates named in such set are selected. The tickets shall be substantially in the following form—varied to suit each case:

REPUBLICAN PRIMARY TICKET.

Delegates to State Convention.

Vote for —

- 1 John Doe.
- 2 Richard Roe.
- 3 James Black.
- 4 Philip Ross.

Delegates to Railroad District Convention, — District.

Vote for —

- 1 John Doe.
- 2 Richard Roe.
- 3 James Black.
- 4 Philip Ross.

Delegates to Equalization District Convention. Vote for —

- 1 John Doe.
- 2 Richard Roe.
- 3 James Black.
- 4 Philip Ross.

Delegates to Congressional District Convention for — Congressional District. Vote for —

- 1 John Doe.
- 2 Richard Roe.
- 3 James Black.
- 4 Philip Ross.

Delegates to County Convention for — County. Vote for —

- 1 John Doe.
- 2 Richard Roe.
- 3 James Black.

Delegates to State Senatorial Convention for — Senatorial  
District. Vote for —

- 1 John Doe.
  - 2 Richard Roe.
  - 3 James Black.

**Delegates to Assembly Convention for — Assembly District.**  
**Vote for —**

- 1 John Doe.
  - 2 Richard Roe.
  - 3 James Black.

The names of each proposed delegate in each set shall be numbered consecutively, and opposite each set of delegates shall be expressed the number to be voted for in such set. If there is any delegate written or printed for whom any voter does not desire to vote, or if there be more names in any set than is to be selected, the voter may erase any name by drawing a line through such name with ink, and not otherwise. If any set of delegates contain more names, not erased, than is allowed by law, such ticket cannot be counted as to such set, but must be counted as to any other set correctly voted for.

SEC. 14. At a general primary election held for the purpose of electing delegates to a convention other than a State convention, there shall be elected not less than one delegate for each party convention for each two hundred votes, and each fraction of one hundred or more, cast in such precinct at the last general election; *provided*, that no convention shall be illegal for lack of the election of a delegate or delegates in any precinct. In selecting delegates for a State convention each political party or organization shall determine how many delegates it will choose from each county, city and county, in the State, and name the number in their petition, and the persons receiving the highest vote for each party shall be determined by canvassing the vote in the various precincts as provided in section ten of this Act.

SEC. 15. At any time in any county, city and county, city, or township, or in any assembly district or political division within this State, or any precinct therein, at which a general primary election is held for the election of delegates to a convention, any voter entitled to vote at such primary election may be a candidate for election as a delegate to any party convention to represent the precinct or district in which he is a voter.

Sec. 16. As soon as the returns are received by the County Clerk, he shall canvass the same and issue a certificate of election for the different State conventions, to the different persons receiving a plurality of the party votes cast for such delegates.

Sec. 17. The ballot to be used at such general primary election shall be of uniform size, twelve inches in length and six inches in width.

SEC. 18. It shall be the duty of the Board of Supervisors of each county within the State of California, to appropriate

from the general funds of the county a sufficient sum of money to pay all necessary expenses of holding any such primary elections within such county; and it shall be the duty of the Auditor of each county within the State of California to draw upon such appropriated funds his several warrants for the payment of all expenses of such primary election as the same shall be certified to him by the County Clerk; such expenses shall consist only of the payment for the box in which to keep the names selected, for polling places, election officers, for printing, for advertising, for stationery, ballot-boxes, and postage stamps and tally sheets. The several political parties shall furnish their own ballots.

SEC. 19. If in any city or county there shall not be by law any Board of Election Commissioners, then all duties enjoined herein upon a Board of Election Commissioners shall be enjoined upon and performed by the Common Council or Trustees of a city or the Board of Supervisors of a county; and all duties enjoined upon the Clerk of a Board of Election Commissioners, where there is no such Board in any city or county, are enjoined upon and shall be performed by the Clerk of a city or by a County Clerk, as the case may be, as fully and with equal force and effect as if specifically set forth in this Act.

SEC. 20. Any act denounced as an offense by the general laws concerning elections of this State shall also be an offense in all primary elections, and in all matters relating thereto, antecedent or subsequent, and shall be punished in the same form and with like penalties as is prescribed for the punishment of similar offenses against the general election laws; and all the provisions and penalties provided by law shall apply in all cases connected with primary elections with equal force, and shall be as effective as if specifically set out in this Act.

SEC. 21. No candidate can have his name printed upon any ballot, to be voted for as a candidate for public office at any general election in this State, unless he shall have been nominated by a convention composed of delegates chosen as provided by this Act; *provided, however,* that nothing in this Act shall prevent any candidate or candidates from being nominated as provided by section eleven hundred and eighty-eight of the Political Code; but such nominees can have no other designation upon a ballot than the word "Independent."

SEC. 22. No ticket or ballot must, on the day of election, be given or delivered to or received by any person except the Inspector, or a Judge acting as Inspector, within one hundred feet of the polling place. No person must, on the day of election, fold any ticket or unfold any ballot which he intends to use in voting, within one hundred feet of the polling place; exhibit to another in any manner, by which the contents thereof may become known, any ticket or ballot which he intends to use in voting. No person must, on the day of the election, within one hundred feet of the polling place, exhibit to another in any manner by which the contents thereof may become known, any ticket or ballot which he intends to use in voting. No person must, on the day of election, within one hundred feet of the poll-

ing place, request another person to exhibit or disclose the contents of any ticket or ballot which such other persons intend to use in voting.

SEC. 23. No polling place shall be held in any saloon where malt, vinous, or spirituous liquors are sold, or in any room leading from or in any manner connected with such saloon.

SEC. 24. Immediately upon making out the credentials of any delegates elected under this law, the Clerk charged with signing such credentials shall mail to the Secretary of each political party or organization which participated in the primary, a complete list of all delegates to whom credentials shall have been given; and said Clerk must, in a proper book to be by him kept, record the names of all delegates elected, with the vote received by each, specifying those to whom credentials have been given, stating when and where such credentials were mailed; and if any delegate entitled to credentials shall not have received his credentials, or have lost the same, said Clerk must, upon request, issue a new credential to such delegate, which must be stamped "Duplicate."

SEC. 25. In years when by law Electors of President and Vice-President are to be voted for, a State convention, to select delegates to a National convention, to select candidates for Elector of President and Vice-President, and at its option to divide itself into a district convention, or district conventions, to nominate candidates for Congress or other district nominees, shall be composed of delegates selected pursuant to this Act at a general primary for such purpose, to be held upon the last Tuesday of March in each such year; *provided*, that in all counties which cast less than nine thousand votes for Governor at the last preceding general election any political party or organization entitled to participate in such a State convention shall not be bound to proceed under this Act, but may select delegates to such a State convention in the manner any such party or organization may respectively determine in any such last mentioned county.

SEC. 26. This Act shall apply to, take effect in, and be in force only in counties of the first and second classes.

SEC. 27. Within thirty days after the passage of this Act the Secretary of State shall cause ten thousand copies of this Act to be printed in pamphlet form for free distribution.

SEC. 28. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

SEC. 29. This Act shall take effect immediately.

## CHAPTER CLXXXII.

*An Act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the State of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal offices, and to provide that their duties may be performed by certain officers of the county, and fixing the compensation to be allowed for such county officers for the services so rendered to such municipal corporations.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Board of Trustees, Common Council, or other legislative body of any municipal corporation or city in this State, except municipal corporations of the first class, shall have power, and it shall be their duty to fix by ordinance the amount of money necessary to be raised by taxation upon the taxable property therein, as a revenue to carry on the various departments of such municipal corporation or city for the current year, not to exceed the limit fixed by law, and to pay the bonded or other indebtedness of such municipal corporation or city. The Board of Trustees, Common Council, or other legislative body, shall meet for such purpose, and shall so ascertain and fix said amount, on the first Monday in August of each year; *provided, however,* that the provisions of this Act shall not apply to or be in force in any city or municipal corporation until its Board of Trustees, Common Council, or other legislative body, shall have passed an ordinance electing to avail itself of the provisions of this Act, and filed a certified copy of the same with the Auditor of the county in which such municipal corporation or city is situated, on or before the first Monday in February of each year; and thereafter all assessments shall be made and taxes collected by the Assessor and Tax Collector of such county until such city or municipal corporation shall, by ordinance, elect not to avail itself of the provisions of this Act for any longer time.

SEC. 2. The Board of Trustees, Common Council, or other legislative body of any municipal corporation or city in this State, except municipal corporations of the first class, shall have power to elect that the duties of the City Treasurer of such city or municipal corporation shall be performed by the County Treasurer of the county in which such city or municipal corporation is situated; and whenever such Board of Trustees, Common Council, or other legislative body shall, by ordinance, so determine, such duties shall be performed by the Treasurer of the county in which such city or municipal corporation is situated. A certified copy of such ordinance shall be served on the Tax Collector and Treasurer of such county, and such ordinance shall also prescribe the manner in which money shall be drawn out of the various funds belonging to such city or municipal corporation in the hands of the Treasurer.

SEC. 3. The County Auditor must, on or before the second Monday in August of each year, transmit to the Board of Trustees, Common Council, or other legislative body of such municipal corporation or city within such county, a statement, in writing, showing the total value of all property within each municipal corporation or city, respectively, which value shall be ascertained from the assessment books of such county for such year, as equalized and corrected by the Board of Supervisors of such county.

SEC. 4. Each Board of Trustees, Common Council, or other legislative body of such municipal corporation or city shall, on the first Monday in September, fix the rate of taxes, designated in the number of cents upon each hundred dollars, using as a basis the value of the property as assessed by the County Assessor, and so returned to such Board by the County Auditor, as required by section two of this Act, which rate of taxation shall be sufficient to raise the amount so fixed by such Board, as required in section one of this Act, which acts by said Board are declared to be a valid assessment of such property and a valid levy of such rates so fixed. Such municipal or city Board must immediately thereafter transmit to the County Auditor of the county in which such municipal corporation or city is situated a statement of such rate so fixed by such municipal Board.

SEC. 5. The Auditor must then compute and enter in a separate column in the assessment book, to be headed "City Tax, City of —" (naming it), the respective sums in dollars and cents to be paid as a municipal or city tax on the property therein enumerated and assessed as being in any municipal corporation or city, using the rate of levy so fixed by such municipal Board, and the assessed value as found in such assessment book. Such taxes so levied shall be collected at the same time and in the same manner as State and county taxes; and when collected the net amount as ascertained by sections six and seven of this Act shall be paid to the Treasurer of the municipal corporation or city to which it respectively belongs, under the general requirements and penalties provided by law for the settlement of other taxes; *provided, however,* that when such city has by ordinance, a certified copy of which has been served upon the Tax Collector of such county, elected to avail itself of the provisions of section two of this Act, then such Tax Collector shall pay the money belonging to such city or municipal corporation over to the Treasurer of the county in which such city or municipal corporation is situated.

SEC. 6. The Board of Supervisors, on the filing of itemized statements by the County Auditor and County Tax Collector, showing the additional expense to their offices of assessing and collecting these local taxes, may, by an order spread upon the minutes, deduct such expenses from the taxes of such municipal corporation or city, while in the hands of the County Tax Collector, and cover the same into the County Salary Fund; *provided,* that not more than one per cent shall be charged for collecting the first twenty-five thousand dollars so collected, and one fourth of one per cent for all sums over that amount.

SEC. 7. Whenever the Board of Trustees, Common Council, or other legislative body of any municipal corporation or city in this State has elected to avail itself of the provisions of section two of this Act, the Board of Supervisors of such county shall also reserve as and for the expenses of the County Treasurer, incurred by reason of the imposing of these duties upon him, the sum of one fourth of one per cent, which sum shall be deducted from the money collected by the County Tax Collector, and covered in to the County Treasurer into the County Salary Fund.

SEC. 8. Whenever the Board of Trustees, Common Council, or other legislative body of any municipal corporation or city in this State shall have availed itself of the provisions of this Act, all duties, other than the assessing of the property of such city or municipal corporation, belonging to the office of the City Assessor shall be transferred to and performed by the Clerk of such city or municipal corporation; and all duties, other than the collection of taxes, belonging to the office of City Tax Collector shall be transferred to and be performed by the City Marshal or Chief of Police of such city or municipal corporation, and thereafter the office of City Assessor, and City Tax Collector, and City Treasurer may be by ordinance abolished.

SEC. 9. Whenever any real property situate in any city or municipal corporation which has availed itself of the provisions of this Act has been sold for taxes and has been redeemed, the money paid for such redemption shall be apportioned by the County Treasurer to such city or municipal corporation in the proportion which the tax due to such city or municipal corporation bears to the total tax for which such real property was sold.

SEC. 10. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 11. This Act shall take effect immediately.

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#### CHAPTER CLXXXIII.

*An Act to provide for incorporation, operation, and management of coöperative associations.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. It shall be lawful for five or more persons to form a coöperative association for the purpose of transacting any lawful business. Such associations shall not have or issue any capital stock, but shall issue membership certificates to each member thereof, and such membership certificates cannot be assigned so that the transferee thereof can by such transfer become a member of the association except by the resolution of the Board of Directors of the association. But by the reso-

lution of consent of the Board of Directors, such certificates may be transferred, so that the transferee may become a member in lieu of the last former holder thereof.

SEC. 2. In such association the rights and interest of all members shall be equal, and no member can have or acquire a greater interest therein than any other member has. At every election held pursuant to the by-laws each member shall be entitled to cast one vote and no more. All persons above the age of eighteen years, regardless of sex, shall be eligible to membership, if otherwise qualified and elected as the by-laws may provide. The by-laws shall provide for the amount of the indebtedness which such association may incur. And no member shall be responsible individually, or personally liable, for any of the debts or liabilities of the association in excess of his proportion of such indebtedness; but in case of the failure and insolvency of such association, may be required to pay any unpaid dues or installments which have, before such insolvency, become due from such member to the association, pursuant to its by-laws.

SEC. 3. Every association formed under this Act shall prepare articles of association, in writing, which shall set forth: The name of the association, the purpose for which it is formed, the place where its principal business is to be transacted, the term for which it is to exist (not to exceed fifty years), the number of the Directors thereof, and the names and residences of those selected for the first year, the amount which each member is to pay upon admission as membership fee, and that each member signing the articles has actually paid in such sum, and that the interest and right of each member therein is to be equal. Such articles of association must be subscribed by the original associates or members, and acknowledged by each before some person competent to take an acknowledgment of a deed in this State. Such articles so subscribed and acknowledged shall be filed in the office of the Secretary of State, who shall furnish a certified copy thereof, which shall be filed in the office of the County Clerk of the county where the principal business of such association is to be transacted; and from the time of such filing in the office of said County Clerk the association shall be complete, and shall have and exercise all the powers for which it was formed.

SEC. 4. Every association formed under this Act must, within forty days after it shall so become an association, adopt a code of by-laws for the government and management of the association, not inconsistent with this Act. A majority of all the associates shall be necessary to the adoption of such by-laws, and the same must be written in a book, and subscribed by the members adopting the same; and the same cannot be amended or modified except by the vote of a majority of all the members, after notice of the proposed amendment shall be given, as the by-laws may provide. Such association may, by its code of by-laws, provide for the time, place, and manner of calling and conducting its meetings; the number of Directors, the time of their election, their term of office, the mode and man-

ner of their removal, the mode and manner of filling vacancies in the Board caused by death, resignation, removal, or otherwise, and the power and authority of such Directors, and how many thereof shall be necessary to the exercise of the powers of such Directors, which must be at least a majority; the compensation of any of the Directors, or of any officer; the number of the officers, if any, other than the Directors, and their term of office; the mode of removal, and the method of filling a vacancy; the mode and manner of conducting business; the mode and manner of conducting elections, and may provide for voting by ballots forwarded by mail or otherwise; *provided*, the method shall secure the secrecy of the ballot; the mode and manner of succession of membership, and the qualifications for membership, and on what conditions, and when membership shall cease, and the mode and manner of expulsion of a member, subject to the right that an expelled member shall have a right to have the Board of Directors appraise his interest in the association in either money, property, or labor, as the Directors shall deem best, and to have the money, property, or labor so awarded him paid, or delivered, or performed within forty days after expulsion; the amount of membership fee, and the dues, installments, or labor which each member shall be required to pay or perform, if any, and the manner of collection or enforcement, and for forfeiting or selling of membership interest for non-payment or non-performance; the method, time, and manner of permitting the withdrawal of a member, if at all, and how his interest shall be ascertained, either in money or property, and within what time the same shall be paid or delivered to such member; the mode and manner of ascertaining the interest of a member at his death, if his legal representatives or none of them desire to succeed to the membership, and whether the same shall be paid to his legal representatives in money, or property, or labor, and within what time the same shall be paid, or delivered, or performed; such other things as may be proper to carry out the purpose for which the association was formed.

SEC. 5. The by-laws and all amendments must be recorded in a book and kept in the office of the association, and a copy, certified by the Directors, must be filed in the office of the County Clerk where the principal business is transacted.

SEC. 6. The property of such association shall be subject to judgment and execution for the lawful debts of the association. The interest of a member in such association, if sold upon execution, or any judicial or governmental order whatever, cannot authorize the purchaser to have any right, except to succeed, as a member in the association, with the consent of the Directors, to the rights of the member whose interest is thus sold. If the Directors shall choose to pay or settle the matter after such sale, they may either cancel the membership, and add the interest thus sold to the assets or common property of the association, or re-issue the share or right to a new member upon proper payment therefor, as the Directors may determine.

SEC. 7. The purpose of the business may be altered, changed, modified, enlarged, or diminished by a vote of two thirds of all

the members, at a special election to be called for such purpose, of which notice must be given the same as the by-laws shall provide for election of Directors.

SEC. 8. The by-laws shall provide for the time and manner in which profits shall be divided between the members, and what proportion of the profits, if any, shall be added to the common property or funds of the association. But the by-laws may provide that the Directors may suspend or pass the payment of any such profit, or installment of earnings, at their discretion.

SEC. 9. Every association formed under this Act shall have power of succession by its associate name for fifty years; to, in such name, sue and be sued in any Court; to make and use a common seal, and alter the same at pleasure; to receive by gift, devise, or purchase, hold, and convey real and personal property, as the purposes of the association may require; to appoint such subordinate agents or officers as the business may require; to admit associates or members, and to sell or forfeit their interest in the association for default of installments, or dues, or work, or labor required, as provided by the by-laws; to enter into any and all lawful contracts or obligations essential to the transaction of its affairs, for the purpose for which it was formed, and to borrow money, and issue all such notes, bills, or evidences of indebtedness or mortgage as its by-laws may provide for; to trade, barter, buy, sell, exchange, and to do all other things proper to be done for the purpose of carrying into effect the objects for which the association is formed.

SEC. 10. Two or more associations formed and existing under this Act may be consolidated together, upon such terms, and for such purposes, and by such name, as may be agreed upon, in writing, signed by two thirds of the members of each such association. Such agreement must also state all the matters necessary to articles of association, and must be acknowledged by the signers before an officer competent to take an acknowledgment of deeds in this State, and be filed in the office of the Secretary of State, and a certified copy thereof be filed in the office of the County Clerk of the county where its principal business is to be transacted; and from and after the filing of such certified copy, the former associations comprising the component parts shall cease to exist, and the consolidated association shall succeed to all the rights, duties, and powers of the component associations, and be possessed of all the rights, duties, and powers prescribed in the agreement of consolidated association not inconsistent with this Act, and shall be subject to all the liabilities and obligations of the former component associations, and succeed to all the property and interests thereof, and may make by-laws and do all things permitted by this Act.

SEC. 11. Any association formed or consolidated under this Act may be dissolved and its affairs wound up voluntarily by the written request of two thirds of the members. Such request shall be addressed to the Directors, and shall specify reasons why the winding up of the affairs of the association is deemed

advisable, and shall name three persons who are members to act in liquidation and in winding up the affairs of the association, a majority of whom shall thereupon have full power to do all things necessary to liquidation; and upon the filing of such request with the Directors, and a copy thereof in the office of the County Clerk of the county where the principal business is transacted, all power of the Directors shall cease and the persons appointed shall proceed to wind up the association, and realize upon its assets, and pay its debts, and divide the residue of its money among the members, share and share alike, within a time to be named in said written request, or such further time as may be granted them by two thirds of the members, in writing, filed in the office of said County Clerk; and upon the completion of such liquidation the said association shall be deemed dissolved. No receiver of any such association, or of any property thereof, or of any right therein, can be appointed by any Court, upon the application of any member, save after judgment of dissolution for usurping franchises at the suit of the State of California by its Attorney-General.

SEC. 12. The right of any association claiming to be organized under this Act to do business may be inquired into by *quo warranto*, at the suit of the Attorney-General of this State, but not otherwise.

SEC. 13. This Act being passed to promote association for mutual welfare, the words "lawful business" shall extend to every kind of lawful effort for business, educational, industrial, benevolent, social, or political purposes, whether conducted for profit or not, and this Act shall not be strictly construed, but its provisions must at all times be liberally construed, with a view to effect its object and to promote its purposes.

SEC. 14. This Act shall take effect immediately.

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#### CHAPTER CLXXXIV.

*An Act to amend sections seven hundred and two and seven hundred and three of the Code of Civil Procedure, relating to the redemption of property sold on execution.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section seven hundred and two of the Code of Civil Procedure is hereby amended so as to read as follows:

702. The judgment debtor or redemptioner may redeem the property from the purchaser any time within six months after the sale on paying the purchaser the amount of his purchase, with one per cent per month thereon in addition, up to the time of redemption, together with the amount of any assessment or taxes which the purchaser may have paid thereon after purchase, and interest on such amount. And if the

purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such lien with interest.

SEC. 2. Section seven hundred and three of the Code of Civil Procedure is hereby amended so as to read as follows:

703. If property be so redeemed by a redemptioner, another redemptioner may, within sixty days after the last redemption, again redeem it from the last redemptioner, on paying the sum paid on such last redemption, with two per cent thereon in addition, and the amount of any assessment or taxes which the last redemptioner may have paid thereon after the redemption by him, with interest on such amount, and in addition the amount of any liens held by said last redemptioner prior to his own, with interest; but the judgment under which the property was sold need not be so paid as a lien. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner, within sixty days after the last redemption, on paying the sum paid on the last previous redemption, with two per cent thereon in addition, and the amount of any assessments or taxes which the last previous redemptioner paid after the redemption by him, with interest thereon, and the amount of any liens other than the judgment under which the property was sold, held by the last redemptioner previous to his own, with interest. Written notice of redemption must be given to the Sheriff, and a duplicate filed with the Recorder of the county, and if any taxes or assessments are paid by the redemptioner, or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the Sheriff, and filed with the Recorder; and if such notice be not filed, the property may be redeemed without paying such tax, assessment, or lien. If no redemption be made within six months after the sale, the purchaser, or his assignee, is entitled to a conveyance; or, if so redeemed, whenever sixty days have elapsed, and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to a Sheriff's deed; but in all cases the judgment debtor shall have the entire period of six months from the date of the sale to redeem the property. If the judgment debtor redeem, he must make the same payments as are required to effect a redemption by a redemptioner. If the debtor redeem, the effect of the sale is terminated, and he is restored to his estate. Upon a redemption by the debtor, the person to whom the payment is made must execute and deliver to him a certificate of redemption, acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. Such certificate must be filed and recorded in the office of the Recorder of the county in which the property is situated, and the Recorder must note the record thereof in the margin of the record of the certificate of sale.

CHAPTER CLXXXV.

*An Act to amend section one of an Act entitled an Act to promote the purity of elections by regulating the conduct thereof, and to support the privilege of free suffrage by prohibiting certain acts and privileges in relation thereto, and providing for the punishment thereof.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

Section one of an Act entitled an Act to promote the purity of elections by regulating the conduct thereof, and to support the privilege of free suffrage by prohibiting certain acts and privileges in relation thereto, and providing for the punishment thereof, is amended so as to read as follows:

Section 1. All nominations of candidates for public office to be filled by election within this State, and Presidential Electors, must be filed with the proper officer within the time and in the manner prescribed by law. Every certificate of nominations made by the members of a political party, or by a convention or organized assemblage of delegates, or other body of citizens representing a political party or principle, must be signed as provided by the provisions of sections eleven hundred and eighty-seven (1187) or eleven hundred and eighty-eight (1188) of the Political Code of this State; and at the time of filing the certificate of nomination, the persons signing such certificates of nomination shall also file with the officer authorized by law to receive and file such certificate the names of five persons, who have accepted, in writing, and consented to act, selected to receive, expend, audit, and disburse all moneys contributed, donated, subscribed, or in anywise furnished or raised for the purpose of aiding or promoting the election of the candidates for office or electors named in the said certificate of nomination, or in any manner to be used in respect of the conduct and management of the election at which such candidates are to be voted for. The certificate of nomination must not be received or filed unless accompanied by the names of five persons, citizens and electors of this State, to compose such committee, together with their written acceptance and consent to act as such committee, as required by this Act. All independent candidates must file the names of five persons to act as an auditing committee, in the same manner and at the same time as required by all regular party nominees or candidates, and all members of such an auditing committee acting for an independent candidate are to be governed by the same laws and requirements as the auditing committee of all regular party nominees or candidates. The said committee shall have the exclusive custody of all moneys contributed, donated, subscribed, or in anywise furnished or raised for or on behalf of the political party, organized assemblage or body, or candidates represented by said committee, and shall disburse the same on proper vouchers, under the directions

of the body or superior authority to which it is subject, if there be any. If, for any cause, a vacancy shall occur in the membership of said committee prior to the fifteenth day before the day of holding an election, the vacancy must be filled by the same authority as vacancies in the list of nominees are filled. No vacancy by resignation therefrom or refusal to act upon said committee shall occur after the fifteenth day before the day of holding an election, or until the said committee shall have completed and discharged all of the duties required of them by this Act. If any vacancy be created by death or legal disability subsequent to the fifteenth day before the day of holding an election, such vacancy shall not be filled, and the remaining members shall discharge and complete the duties required of said committee as if such vacancy had not been created.

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## CHAPTER CLXXXVI.

*An Act to amend sections ten hundred and ninety-four, ten hundred and ninety-six, eleven hundred and thirteen, eleven hundred and fourteen, eleven hundred and fifteen, and eleven hundred and sixteen of the Political Code of the State of California, relative to registration of voters.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section ten hundred and ninety-four of the Political Code is amended to read as follows:

1094. A register, in which shall be entered the names of the qualified electors of each of the counties in the State, shall be kept at the office of the County Clerk of such county, and in each of the cities and counties in the State such a register shall be kept in the office of the person charged with the registration of voters in such city and county. There shall be in each of the counties, and cities and counties, in the State (where registration is now required by law to take place previous to each general election, and in other counties, or cities and counties, when required by the Board of Supervisors) a new and complete registration of the voters of such counties, and cities and counties, who are entitled thereto, and who apply with the proper proof. Such registration shall commence one hundred and sixty days before a general election, and shall continue for seventy-five days thence next ensuing, when such registration shall cease; provided, that any elector who has registered and thereafter moved his residence to another precinct in the same county, thirty days before an election, may have his registration transferred to such other precinct upon his application, verified by oath, setting forth the change of residence, and containing the other facts required for original registration. Upon the filing of such affidavit the County Clerk must write on the

register, opposite the name of such elector, "canceled by transfer to —," and reenter in the Great Register, with a change of precinct and address, the registration of such elector, writing thereafter the words, "transferred from —." No transfer from one precinct to another shall be made between a general election and a date twenty-seven days before such election. In cities and counties containing more than one hundred and fifty thousand inhabitants every landlord or keeper of any premises where lodgers abide shall keep a list of the names of all lodgers occupying rooms or sleeping apartments or beds in the premises under his control, commencing such list on the one hundred and fiftieth day previous to any election, and such list shall be kept daily so as to be ready for reference and inspection by the Board of Election Commissioners or a clerk delegated by them for that purpose. Blank lists shall be furnished to every landlord or keeper of premises where lodgers abide, and shall be collected daily, by order of the Election Commissioners; such blanks shall be ruled in columns showing the name of the lodger, the number of room, and the story of the building, and at any time from the beginning of registration to the day of election, shall be furnished to the Board of Election Commissioners upon their request therefor. Any landlord or keeper of premises where lodgers abide, neglecting or refusing to comply with the provisions of this Act, shall be deemed to be guilty of a misdemeanor, and on conviction thereof shall be fined the sum of fifty dollars; and in the event of non-payment of such fine shall be committed to the county jail for a term of days, at the rate of one dollar per day for each dollar of said fine. Any voter registered in premises in which the landlord or keeper neglects or refuses to comply with this Act shall be cited to appear before the Election Commissioners within five (5) days in order to verify his right to vote. It shall be considered as a proper citation to such voter if the citation is addressed to the name of party registered, the number of room and place of registration; and if the party cited does not appear in answer to the citation at the time appointed, his name shall be stricken from the register of voters. The landlord or keeper of premises from which the voter is registered shall also be cited to appear at the same time and place at which the citation of his alleged lodger is returnable.

SEC. 2. Section ten hundred and ninety-six of the Political Code is hereby amended to read as follows:

**1096.** Such entry must show:

1. The name at length.
2. Business or occupation.
3. The age, omitting fractions of years.
4. The height.
5. The complexion.
6. The color of eyes.
7. The color of hair.
8. The visible marks or scars, if any, and their locality.
9. The country of nativity.

10. The place of residence (giving ward and precinct); and in cities, and cities and counties of over ten thousand inhabitants, by specifying the name of the street, avenue, or other location of and dwelling of such elector, with the number of such dwelling, if the same has a number, and if not, then with such description of the place that it can be readily ascertained and identified. If the elector be not the proprietor or head of the house, then it must show that fact, and upon what floor thereof and what room such elector occupies in such house.

11. If naturalized, the time and place of naturalization.

12. The date of the entry of each person; each name must be numbered in the order of its entry.

13. The post office address at date of entry of each person.

14. The fact whether or not the elector desiring to be registered is able to read the Constitution in the English language and to write his name, and whether or not the elector has any physical disability, by reason of which he cannot mark his ballot; and if he cannot mark his ballot by reason of physical disability, then the nature of such disability must be entered, and the fact that by reason thereof he cannot mark his ballot.

SEC. 3. Section eleven hundred and thirteen of the Political Code of the State of California is hereby amended to read as follows:

1113. The County Clerk, or the person charged with the registration of voters in any county or city and county, must arrange all registration affidavits in precinct packages as fast as received. At the close of registration in counties where a new registration has been ordered, the County Clerk, or person charged with the registration of voters in any city, or county, or city and county must arrange alphabetically, according to surnames, the previously separated packages of all the registration affidavits of his county, or city, or city and county, and enter the substance thereof, so arranged, in separate precinct books; such entries to be completed at least seventy-two (72) days before a general election. Such precinct books shall at all times be open to public inspection.

SEC. 4. Section eleven hundred and fourteen of the Political Code of the State of California is hereby amended to read as follows:

1114. In counties in which a new registration shall not have been ordered in any even-numbered year, the County Clerk, or person charged with the registration of voters in any county, or city and county, shall keep a book, to be known as the supplemental register, in which shall be entered, under the appropriate precinct heading, all changes made since the last printed register, including, under the head "Additions," all new registrations and all transfers to a precinct from another precinct; and under the head "Cancellations," all names stricken from the register by reason of death, removal from the county, removal from the precinct of original registration, adjudication that the elector is insane or legally incapable, or has been convicted of an infamous crime or embezzlement or misappropriation of public money, or by reason of a judgment directing cancellation, or at the request of the party registered.

SEC. 5. Section eleven hundred and fifteen of the Political Code of the State of California is hereby amended to read as follows:

1115. Twenty-six days before a general election, in counties where a new registration shall have been ordered, the County Clerk, or person charged with the registration of voters, shall furnish to the printer with whom a contract for the printing of the register shall have been made, the precinct books provided for in section eleven hundred and thirteen of the Political Code. Such precinct book shall, at the time of delivery to the printer, show all transfers and have stricken therefrom all cancellations since the close of registration. The registers must be printed and delivered, together with the precinct books used as copy, at least ten days before the election. Such registers shall be printed in the form prescribed by the Board of Supervisors or Election Commissioners, either in separate precinct books or in books containing all the precincts, in which last case the precincts in such books shall be alphabetically and numerically arranged, and the names placed therein alphabetically under their appropriate precinct headings. In counties where a new registration shall not have been had in any even-numbered year, there shall be printed, within the time prescribed in this section for printing the registers, a supplemental register, containing all additions, changes, and cancellations, alphabetically arranged under their appropriate precinct headings, since the last printed register, as shown by the supplemental register provided for in section eleven hundred and fourteen of the Political Code. There shall be but one edition of a supplemental register used in connection with the printed register at any general election, and such edition shall show all additions, changes, and cancellations made since the last printed register, although a part of such additions, changes, and cancellations may have appeared in a former printed supplemental register. The County Clerk, or person charged with the registration of voters, must have printed a sufficient number of copies of registers and supplemental registers to supply each election precinct in the county with not less than ten copies thereof, and fifty additional for every one thousand votes cast in the county at the next preceding general election; but the Board of Supervisors or Election Commissioners may order printed a larger edition, if in their judgment a larger edition is required for subsequent elections or for any other reason.

SEC. 6. Section eleven hundred and sixteen of the Political Code of the State of California is hereby amended to read as follows:

1116. The County Clerk, or person charged with the registration of voters, must, as soon as such copies of the Great Registers, precinct registers, or supplemental registers are printed:

1. Post one copy in some public place in the court-house.
2. Deliver, upon demand, one copy to each county and township officer in the county.
3. Transmit and cause to be delivered not less than ten copies to each Board of Election in the county.

4. Preserve five copies in the office for the inspection of the public.

5. Transmit to the State Library, Mercantile Library, Mechanics' Institute, and Odd Fellows' Library, of San Francisco, one copy each.

6. Deliver one copy to each elector of the county or respective precinct applying therefor, until the remainder of the edition printed is exhausted.

*Provided*, that nothing in this section, except the first, third, and fourth subdivisions thereof, shall apply to counties other than of the first class.

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### CHAPTER CLXXXVIII.

*An Act to amend sections five hundred and thirty-one and five hundred and thirty-two of the Political Code, and section ninety-nine of the Penal Code of the State of California, relative to the duties and qualifications of the Superintendent of State Printing of said State.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section five hundred and thirty-one of the Political Code of the State of California is hereby amended so as to read as follows:

531. The duties of the Superintendent of State Printing shall be as follows: He shall have the entire charge and superintendence of the State printing and binding. He shall take charge of and be responsible on his bond for all manuscripts and other matter which may be placed in his hands to be printed, bound, engraved, or lithographed, and shall cause the same to be promptly executed. He shall receive from the Senate or Assembly all matter ordered by either house to be printed and bound, or either printed or bound, and shall keep a record of the same, and of the order in which it may be received; and when the work shall have been executed, he shall deliver the finished sheets or volumes to the Sergeant-at-Arms of the Senate or Assembly, or of any department authorized to receive them, whose receipt therefor shall be a sufficient voucher to the said Superintendent of State Printing for their delivery. He shall receive and promptly execute all orders for printing or binding required to be done for the various State officers; *provided*, that the said Superintendent of State Printing shall have discretionary authority to revise, reduce, or decline to execute any order, or part of any order, which in his judgment is unnecessary or unwarranted by law, and which will tend to unnecessarily consume the appropriation for support of the State Printing Office; and *provided further*, that in the event that any State officer, board, commission, or State institution shall consider the decision of

the said Superintendent of State Printing unfair, he may refer the matter to the State Board of Examiners, which Board shall determine the matter. He shall employ such compositors, pressmen, and assistants as the exigency of the work from time to time requires, and may at any time discharge such employés; *provided*, that at no time shall he pay said compositors, pressmen, or assistants a higher rate of wages than is paid by those employing printers in Sacramento for like work. He shall at no time employ more compositors or assistants than the absolute necessities of the State printing may demand, and he shall not permit any other than State work to be done in the State Printing Office. The Superintendent of State Printing shall, on or before the fifteenth day of September of each year, make a report, in writing, to the Governor, embracing a record of the complete transactions of his office for the preceding fiscal year, which report shall show in detail all the items of expense attending the State printing and all the expenses of the office, including repairs and the purchase of materials of all kinds. Said report shall also state the number of reams and various kinds of paper delivered to him, and the amount and quality remaining on hand, which report shall be printed, biennially, for the use of the Legislature.

SEC. 2. Section five hundred and thirty-two of the Political Code of the State of California is hereby amended so as to read as follows:

532. In April, eighteen hundred and ninety-six, and in April of every year thereafter, the Superintendent of State Printing shall submit to the State Board of Examiners samples of the various kinds, sizes, and qualities of paper that will probably be required in his office during the year commencing on the then next first Monday in July, an estimate of the probable quantity of each kind, size, and quality that will be so required. Upon being satisfied that the kinds, sizes, quantities, and qualities of paper so suggested will be required, they shall direct the Superintendent of State Printing to advertise for thirty days, in two daily newspapers, one of which shall be published in the city of San Francisco, and one in the city of Sacramento, for proposals to furnish such paper, or so much thereof as may be required during the year commencing as aforesaid, which bids shall be opened in his office, at twelve o'clock M. on the day appointed, in the presence of the said Superintendent, and at least two of the State Board of Examiners; and the said Superintendent of State Printing, and the members of the State Board of Examiners then and there present, shall constitute a Board to award the contract to the lowest and best responsible bidder. No bid shall be considered unless accompanied by a certified check, in the sum of two thousand dollars, gold coin, payable to the Governor for the use of the people of the State of California, conditioned that if the bidder receives the award of the contract he will, within thirty days, enter into bonds in the sum of ten thousand dollars, with two or more sureties, to be approved by the Governor of the State, that he will faithfully perform the conditions of his contract. All bids must be

for the furnishing and delivery of the paper and materials at the State Printing Office, in the city of Sacramento, so that the State shall not be charged with any cost of transportation or delivery, which must be specified in the advertisement for bids. If all the bids opened shall be deemed too high by said Board, they may decline them and advertise again. If the second set of bids are considered too high, the said Board may again decline them, and the Superintendent of State Printing may purchase such paper in the open market. The prices paid shall in no case be higher than the lowest price at which such paper was offered to be furnished by the bids so rejected.

SEC. 3. Section ninety-nine of the Penal Code of the State of California is hereby amended so as to read as follows:

99. The Superintendent of State Printing shall not, during his continuance in office, have any interest, either directly or indirectly, in any contract in any way connected with his office as Superintendent of State Printing; nor shall he, during said period, be interested, either directly or indirectly, in any State printing, binding, engraving, lithographing, or other State work of any kind connected with his said office; nor shall he, directly or indirectly, be interested in any contract for furnishing paper, or other printing stock or material, to or for use in his said office; and any violations of these provisions shall subject him, on conviction before a Court of competent jurisdiction, to imprisonment in the State Prison for a term of not less than two years nor more than five years, and to a fine of not less than one thousand dollars nor more than three thousand dollars, or by both such fine and imprisonment.

SEC. 4. All Acts and parts of Acts in conflict herewith are hereby repealed; and this Act shall take effect immediately.

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## CHAPTER CXCI.

*An Act to amend section three of "An Act to regulate contracts on behalf of the State, in relation to erections and buildings," approved March 23, 1876, and an Act amendatory thereof, approved March 31, 1891.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section three of "An Act to regulate contracts on behalf of the State, in relation to erections and buildings," approved March twenty-third, eighteen hundred and seventy-six, is hereby amended to read as follows:

Section 3. That after such plans, descriptions, bills of materials, and specifications and estimates as are in this Act required are made and approved, in accordance with the requirements of this Act, it shall be and is hereby made the duty of such Commissioners, Directors, Trustees, or other officer or offi-

cers to whom the duty of devising and superintending the erection, addition to, alteration, or improvement of such institution, asylum, or other improvement as in this Act provided, to give or cause to be given public notice of the time and place when and where sealed proposals will be received for performing the labor and furnishing the materials necessary to the erection of such institution, asylum, or other improvement, or for the adding to, altering, or improvement thereof, and a contract or contracts based on such sealed proposals will be made, which notice shall be published weekly for four consecutive weeks next preceding the day named for the making of such contract or contracts, in the paper having the largest circulation in the county where the work is to be let, and in three daily papers having the largest circulation and published one in each of the cities of Los Angeles, Sacramento, and San Francisco, and shall state when and where such plan or plans, descriptions, bills, and specifications can be seen, and which shall be open to public inspection at all business hours between the date of such notice and the making of such contract or contracts. The aforesaid notice must state that separate bids will be received and separate contracts let for the performance of each of the following parts of said erection, addition, alteration, or improvement, including the furnishing of materials and labor necessary therefor, viz.: first, for the masonry work, including all brick, stone, terra cotta, and concrete work, and all necessary excavations and filling; second, for the iron work; third, for the carpenter, plastering, electric, and glazing work; fourth, for the plumbing and gasfitting work; fifth, for the heating work; sixth, for the tinning, galvanized iron, and slating work; and seventh, for the painting and graining work; and there shall be in all such cases as many separate contracts let therefor as there are different kinds of work, according to the foregoing classification, whether the same be let by the State Board of Harbor Commissioners or any other of the aforesaid Commissioners, Directors, Trustees, or other officer or officers.

SEC. 2. This Act shall take effect and be in force from and after its passage.

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#### CHAPTER CXCVII.

*An Act amending the Civil Code of the State of California, adding thereto two new sections, to be numbered four hundred and ninety-two and four hundred and ninety-three, concerning franchises for the construction of elevated and underground railroad tracks.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is hereby added to the Civil Code of the State of California, numbered section four hundred and ninety-two, as follows:

**492.** The legislative or other body to whom is intrusted the government of the county, city and county, city, or town, under such regulations, restrictions, and limitations, and upon such terms and payment of license tax as the county, city and county, city, or town authority may provide, may grant franchises for the construction of elevated or underground railroad tracks over, across, or under the streets and public highways of any such county, city and county, city, or town, for the term not exceeding fifty years; *provided*, that before granting such franchise there shall be presented to such legislative or other body a petition signed by the owners of a majority of the landed property, other than public property, on the line of said elevated portion applied for.

**SEC. 2.** A new section is hereby added to the Civil Code of the State of California, numbered section four hundred and ninety-three, as follows:

**493.** This Act shall apply to all railroad companies heretofore and hereafter incorporated.

**SEC. 3.** This Act shall take effect immediately.

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## CHAPTER CXCVIII.

*An Act conferring power upon the Common Council, Board of Supervisors, or other governing body of cities, or cities and counties, of over one hundred thousand inhabitants, to acquire or condemn land for a suitable site, and erect thereon a suitable building or buildings for municipal purposes.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

**SECTION 1.** Power and authority is hereby conferred upon the Common Council, Board of Supervisors, or other governing body of every city, or city and county, in this State having a population of over one hundred thousand inhabitants, to provide for the erection and construction in such city, or city and county, and at the expense of the same, such additional or other municipal building or buildings as the Common Council, Board of Supervisors, or other governing body of such city, or city and county, may determine upon for the accommodation of the criminal department of the Superior Court, Police Courts, police stations, prisons, morgues, or Coroner's offices of such city, or city and county, and for such other municipal uses as may be deemed necessary.

**SEC. 2.** In the event that the Common Council, Board of Supervisors, or other governing body of such city, or city and county, shall deem it expedient, and in their judgment that the public good requires the construction of such building or buildings, for the construction of which power is conferred upon them by section one of this Act, in the manner and mode pre-

scribed by this Act, they are hereby authorized and empowered to express such judgment by resolution or order, in such manner as they may deem proper. And for the purpose of raising the money necessary to complete said building or buildings, the said Common Council, Board of Supervisors, or other governing body of such city, or city and county, is hereby authorized and empowered to levy and collect, in the same manner and at the same time as other taxes are levied and collected in such city, or city and county, for municipal purposes, an ad valorem property tax on real and personal property, which shall not in the aggregate exceed the sum of three hundred thousand dollars, which sum shall cover all the expense of the said building or buildings.

SEC. 3. As a site for the erection and construction of said building or buildings, power is hereby conferred upon the Common Council, Board of Supervisors, or other governing body of such city, or city and county, to acquire by purchase, or to condemn and acquire under the laws of eminent domain, such land as may be necessary therefor.

SEC. 4. The money arising from the tax hereby authorized to be levied and collected shall be kept by the City, City and County Treasury of such city, or city and county, in a fund to be known as the "Public Building Fund," and out of which said fund all claims for work, labor, and materials used in the construction of said building, and all other expenses authorized to be incurred under the provisions of this Act, shall be paid. All claims against the said fund shall be allowed by the Common Council, Board of Supervisors, or other governing body of such city, or city and county, by resolution entered upon the minutes in the same manner and form as other expenditures are authorized, before the Auditor shall be authorized to audit the same; and in no case shall any portion of said fund be used or expended for any other purpose than those herein indicated, nor shall any part of the cost of the construction of said building be paid out of any other or different fund; nor shall any lien for work, labor, or material at any time attach to the said building or buildings, nor the land upon which the same is located, in any manner whatever.

SEC. 5. When work is to be done upon said building or buildings, or materials to be furnished, it shall be the duty of the Common Council, Board of Supervisors, or other governing body of such city, or city and county, to advertise for at least ten days in a daily newspaper published and circulated in such city, or city and county, for sealed proposals for doing both said work and furnishing said material. The said work and material shall be of the best quality. The advertisement shall contain a general description of the work to be done and the materials to be furnished, the time within which the same is to be done or furnished, and may refer to plans and specifications for such other details as may be necessary to give a correct understanding regarding the work or materials. The advertisement shall also state the day and an hour of said day within which bids will be received. At the hour and day

stated in the advertisement, the said Board or body shall proceed to open the bids in the presence of the bidders, and an abstract of each shall be recorded in the minutes by the Clerk. A day and hour shall then be fixed for considering the bids and awarding the contract. An abstract of said bids, showing the name of each bidder, the price at which work, labor, and materials are offered to be done or furnished by each, and such other things as may be necessary to show or explain the offer, shall be made by the Clerk and published for five days in a daily newspaper of general circulation published in such city, or city and county. At the expiration of five days after the first publication of the abstract, on the day and at the hour fixed by said Board or body, the said Board or body shall proceed to consider the several bids and award the contract for doing the work and supplying the material for which proposals are invited, and for none other, to the lowest bidder who shall furnish sufficient sureties to guarantee the performance of the contract; *provided*, the advertisement hereinbefore provided for shall invite proposals and bids for the performance of all the work and the furnishing of all the materials which may be required for the erection and completion of the entire building or buildings; and the contract herein provided for shall cover the erection and completion of the entire building or buildings, and the whole thereof shall be erected and completed and made ready for occupancy under and by a single contract. Said Board or body shall have the right to reject any or all bids when in their judgment the public interests may be thereby promoted. Such contract shall be executed on behalf of such city, or city and county, by the Mayor, or President of the Common Council, Board of Supervisors, or other governing body of such city, or city and county. No change in the plans or specifications shall be made after proposals for doing work and furnishing materials have been called for; nor shall any contractor be allowed a claim for work done or materials furnished not embraced in his contract. All contracts shall be in writing, and shall be carefully drawn by the City Attorney, City and County Attorney, or other law officer of such city, or city and county, and shall contain detailed specifications of the work to be done, the manner in which the same shall be executed, the quality of the material, and the time within which the same shall be completed; and such penalty for the non-performance of such contract as said Board or body may deem just and reasonable. All contracts shall be signed in triplicate—one copy of which, with the plans and specifications of the work to be done, shall be filed with the Clerk or Secretary of said Board or body, and shall at all times, in office hours, be open to the inspection of the public; one, with the plans and specifications, shall be kept in the office of said Board or body, and the other copy, with plans and specifications, shall be delivered to the contractor.

SEC. 6. The Common Council, Board of Supervisors, or other governing body of such city, or city and county, may make

payments on such contract from time to time, as work progresses or materials are furnished; but until the contract is completed, at no time shall the payments exceed seventy-five per centum of the value of the labor or materials furnished.

SEC. 7. The plans and specifications herein referred to shall be secured by said Board or body after the publication for ten days in a daily newspaper of general circulation in such city, or city and county, of a resolution inviting the submission of competitive plans and specifications for said building or buildings. Said resolution shall contain a general statement of the purposes for which said building or buildings are to be used, the cost thereof, and the character of the design required. Said plans and specifications may be submitted to such Board or body under such requirements and conditions, and at such time as said Board or body may prescribe.

SEC. 8. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CXCIX.

*An Act to amend sections eighteen hundred and eighty, eighteen hundred and eighty-four, and eighteen hundred and eighty-six of the Political Code of the State of California, relating to public schools.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section one thousand eight hundred and eighty of the Political Code is hereby amended to read as follows:

1880. The Board of Trustees, Board of Education, or other governing body of any school district may, when in their judgment it is advisable, and must upon a petition of a majority of the heads of families residing in the district, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money for purchasing school lots, for building or purchasing one or more school houses, for insuring the same, for supplying the same with furniture and necessary apparatus, for improving the grounds, or for any or all of said purposes, and for liquidating any indebtedness already incurred for said purposes.

Sec. 2. Section one thousand eight hundred and eighty-four of the Political Code is hereby amended to read as follows:

1884. On the seventh day after said election, at one o'clock p. m., the returns having been made to the Board of Trustees, Board of Education, or other governing body of such school district, the Board must meet and canvass said returns, and if it appears that two thirds of the votes cast at said election was in favor of issuing such bonds, then the Board shall cause an entry of that fact to be made upon its minutes, and shall certify to the Board of Supervisors of the county all the proceedings had in the premises, and thereupon said Board of Supervisors

shall be and they are hereby authorized and directed to issue the bonds of such district, to the number and amount provided in such proceedings, payable out of the Building Fund of such district, naming the same, and that the money shall be raised by taxation upon the taxable property in said district, for the redemption of said bonds and the payment of the interest thereon; *provided*, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the district, as shown by the last equalized assessment book of the county.

SEC. 3. Section one thousand eight hundred and eighty-six of the Political Code is hereby amended to read as follows:

1886. Said bonds must not bear a greater amount of interest than eight per cent, said interest to be payable annually or semi-annually; and said bonds must be sold in the manner prescribed by the Board of Supervisors, but for not less than par, and the proceeds of the sale thereof must be deposited in the County Treasury to the credit of the Building Fund of said school district, and be drawn out for the purposes aforesaid as other school moneys are drawn out. All the proceedings of every school district and of every Board of Trustees, Board of Education, Board of Supervisors, and of all officers of school districts and counties, purporting to have been taken under or by authority of sections one thousand eight hundred and eighty to one thousand eight hundred and eighty-eight, inclusive, of the Political Code, shall be valid in the same manner and to the same extent as if sections one thousand eight hundred and eighty and one thousand eight hundred and eighty-four of said Code, at the time when such proceedings were taken, in express language empowered the governing body of all school districts, by whatever name such governing body should be known, to call elections for the purposes set forth in said section one thousand eight hundred and eighty, and to receive and canvass returns, to cause a minute entry of the result of elections, and to certify proceedings to the Board of Supervisors, as provided by said section one thousand eight hundred and eighty-four. And all bonds of school districts purporting to have been issued under or by virtue of any or all of the following sections, to wit: sections one thousand eight hundred and eighty, one thousand eight hundred and eighty-one, one thousand eight hundred and eighty-two, one thousand eight hundred and eighty-three, one thousand eight hundred and eighty-four, one thousand eight hundred and eighty-five, one thousand eight hundred and eighty-six, one thousand eight hundred and eighty-seven, and one thousand eight hundred and eighty-eight, of the Political Code, shall be valid in the same manner and to the same extent as if said sections used the words "Board of Education, Board of Trustees, or other governing body," in place of the words "Board of Trustees," whenever the words "Board of Trustees" occur in said sections.

SEC. 4. This Act shall take effect immediately.

## CHAPTER CC.

*An Act to add a new section to the Penal Code of California, to be known and numbered as section three hundred and ten and one half of said Code, relating to the keeping open and conducting of barber shops, hair-dressing establishments, and bath houses on Sundays and legal holidays.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new section is hereby added to the Penal Code of the State of California, to be known and numbered as section three hundred and ten and one half, and to read as follows:

310½. Every person who as proprietor, manager, lessee, employé, or agent keeps open or conducts, or causes to be kept open or conducted, any barber shop, bath house and barber shop, barber shop of a bathing establishment, or hair-dressing establishment, or any place for shaving or hair dressing, used or conducted in connection with any other place of business or resort, or who engages at work or labor as a barber in any such shop or establishment on Sunday, or on a legal holiday, after the hour of twelve o'clock m. of said day, is guilty of a misdemeanor.

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## CHAPTER CCI.

*An Act to provide for the formation of protection districts in the various counties of this State, for the improvement and rectification of the channels of innavigable streams and watercourses, for the prevention of the overflow thereof, by widening, deepening, and straightening and otherwise improving the same, and to authorize the Boards of Supervisors to levy and collect assessments from the property benefited to pay the expenses of the same.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Whenever the Board of Supervisors of any county in this State may deem it proper to improve and rectify the channel of any innavigable stream or watercourse within the county, and to prevent the overflow of such stream by widening, deepening, or straightening its course, or by erecting levees or dikes upon its banks, the Board may, upon a petition of ten property holders of the district to be affected by such improvements, pass a resolution signifying its intention to improve such innavigable stream or watercourse, describing the exterior boundaries of the district of lands to be affected or benefited by such work or improvement, and to be assessed to pay the

damages, cost, and expenses thereof, the character of work or improvement contemplated, and the place where the proposed work or improvement is to be done. Such resolution shall also contain a notice, to be published, which notice shall be headed "Notice of Intention of the Board of Supervisors to form a Protection District," and shall state the fact of the passage of such resolution, with the date thereof, and briefly, the work or improvement proposed, and the statement that it is proposed to assess all property affected or benefited by such improvement for the expenses thereof, and refer to the resolution for further particulars. Such notice to be given by the Board of Supervisors, and signed by its Clerk.

SEC. 2. Such notice shall be published for a period of thirty days, in one daily newspaper published and circulated in such county, and designated by said Board of Supervisors; or if there is no daily newspaper so published and circulated in said county, then by four successive insertions in a weekly or semi-weekly newspaper so published, circulated, and designated.

SEC. 3. Any person interested, objecting to such work or improvement, or to the extent of the district of lands to be affected or benefited by such work or improvement, and to be assessed to pay the cost and expenses thereof, may make written objections to the same within ten days after the expiration of the time of the publication of said notice, which objection shall be delivered to the Clerk of said Board of Supervisors, who shall indorse thereon the date of its reception by him, and at the next regular meeting of such Board of Supervisors, or at an adjourned meeting, or a special meeting called for that purpose, after the expiration of said ten days, lay such objections before said Board of Supervisors, which shall fix a time for hearing said objection, not less than fifteen days thereafter, and direct its clerk to notify each person objecting of such day fixed for hearing, by depositing a notice thereof in the post office at the county seat of such county, postage prepaid, addressed to such person objecting, which said notice shall be deposited in the post office not less than ten days before the day set for hearing.

SEC. 4. At the time specified or to which the hearing may be adjourned, the Board of Supervisors shall hear the objections urged and pass upon the same. Such Board may, in its discretion, sustain, in whole or in part, any or all of the objections made and filed, and may change or alter the boundaries of such district to conform to the needs of the district, and may, in their discretion, declare such protection district formed as a subdivision of such county, and shall designate such district by name as the — Protection District of — County, and thereafter the Board of Supervisors shall be deemed to have acquired jurisdiction to purchase or receive by donation, in the name of the district, any real or personal property necessary to properly carry out the purposes of the formation of such district, under the same rules as govern the purchase of property in the name of the county; but no district shall be formed wherein a majority of the property holders within its limits protest in writing against such action.

SEC. 5. The Board of Supervisors of such county shall also have power to condemn land for the purpose of widening, deepening, or straightening any innavigable stream flowing through such protection district, and for that purpose all of the provisions of part three, title seven, of the Code of Civil Procedure are hereby made applicable to the exercise of the right of eminent domain for such purposes, or to any purpose necessary to the needs of such district when formed.

SEC. 6. Having acquired jurisdiction, as provided in section four hereof, the Board of Supervisors shall cause a survey of said contemplated improvement to be made, or adopt a survey already made; and a map of the survey must be adopted by such Board, and thereafter such survey and map shall be the plans to be followed in making such improvements.

SEC. 7. After adopting such survey, the Board of Supervisors shall appoint three Commissioners to assess benefits and damages, to estimate the total cost of making the proposed improvements and performing such proposed work, which estimate shall include all expenses of every kind incurred or to be incurred, either directly or indirectly, in carrying out the said work and improvements. Before entering upon the discharge of their duties as such Commissioners, they shall each take and subscribe to an oath to perform the duties of such Commission to the best of their abilities, and shall each file, with the Clerk of the Board of Supervisors, a bond to the State of California, in the sum of three thousand dollars, to faithfully perform the duties of his office as such Commissioner, which said bond must be approved by the Chairman of the Board of Supervisors. The Board of Supervisors may, at any time, remove any or all of said Commissioners for cause, upon reasonable notice and hearing, and may fill any vacancies occurring among them from any cause.

SEC. 8. The Commissioners shall have all powers necessary and proper to carry out the provisions of this Act, and the act of a majority shall be the act of the Board.

SEC. 9. All such charges and expenses shall be deemed as expenses of said work or improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereafter. All claims, as well for the land and improvements taken or damaged as for the charges and expenses, shall be paid as are other claims against the county and upon order of the Board of Supervisors, and the claims shall be itemized in the same manner as are other claims against the county.

SEC. 10. Said Commissioners shall proceed to view the lands embraced within the boundaries of such protection district, and may examine witnesses on oath, to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land and the damage to improvements and property affected, and also the estimated amount of the cost of the proposed work or improvements, and the expenses incident thereto, and having determined the same, shall proceed to assess the same upon

the lands embraced within the exterior boundaries of such protection district. Such assessment shall be made in the manner following, to wit: The Board of Supervisors may assess to the county, as an interested and benefited party, such portion of said assessment, not exceeding one third, as in their judgment they may determine, and the remainder of such assessment shall be made upon the lands within said district in proportion to the benefits to be derived from said work or improvement, so far as the said Commission can reasonably estimate the same, including in such estimate the property of any railroad company within said district, if such there be.

SEC. 11. Said Commissioners, having made their assessment of benefits and damages, shall, with all diligence, make a written report thereof to the Board of Supervisors, and shall accompany their report with a plat of the district, showing the land taken or to be taken for the work or improvement; and the lands assessed, showing the relative location of each district, block, lot, or portion of lot or other piece of land, and its dimensions, so far as the Commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, or other parcel or parcels of land taken or assessed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in all respects. When the report and plat are approved by the Board of Supervisors, a copy of said plat (appropriately designated and certified by the Clerk of said Board as a correct copy of the plat on file in his office) shall be, by the Clerk of said Board, recorded in the office of the Recorder of the county. Said report of the Commissioners shall also contain the names of the persons owning lands taken, or to be taken, for such work or improvement; the names of the land owners who consent to give the right of way, and their written consent thereto; the names of land owners who do not consent, and the amount of damage claimed by each, and the amount of damages awarded to each by the Commissioners.

SEC. 12. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening, deepening, or straightening of such innavigable stream, or other improvement made or work done, or assessed therefor, together with the name of the owner or claimants thereof, or of persons interested therein as lessees, incumbrancers, or otherwise, so far as the same are known to the Commissioners, and the particulars of their interests, so far as the same can be ascertained, and the amount of value or damages, or the amount assessed, as the case may be.

SEC. 13. If in any case the Commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any piece of land or of any improvement thereon, or of any interest in such land or improvement, it shall be set down as belonging to unknown owners. Errors in the designation of the owner or owners of any land or improvement, or of the particulars of their interests, shall not affect the validity of the assessment, or of any condemnation of the property to be taken.

SEC. 14. The Commissioners shall receive for their services such compensation as the Board of Supervisors may determine from time to time; *provided*, that the compensation shall not exceed the sum of one hundred dollars per month each, nor continue for more than six months, unless the Board of Supervisors shall, by order, extend such time. The compensation of the Commissioners shall be considered as an expense of the work or improvement, and shall be chargeable and payable as are other expenses thereof.

SEC. 15. The report of such Commissioners, and the plat accompanying it, shall be filed with the Clerk of the Board of Supervisors, and thereupon the said Clerk shall give notice of such filing by publication for at least ten days, in one daily newspaper published and circulated in said county; or if there be no daily paper, by three successive insertions in a weekly or semi-weekly newspaper so published and circulated. Said notice shall require all persons interested to show cause, if any they have, why such report should not be adopted and confirmed by the Board of Supervisors, on or before a day fixed by the Clerk thereof, and stated in said notice; which day shall not be less than thirty days from the last publication thereof. Such notice shall be substantially in the following form:

Notice of the filing of the report of the Board of Commissioners of — Protection District.

Notice is hereby given that the Board of Commissioners of — Protection District did, on the — day of — 189—, file its report of the assessment of benefits and award of damages in said protection district with the Clerk of the Board of Supervisors of — County, which said report is now on file in the office of said Board, in the county court-house, in the city of —, in said county. Said report is hereby made a part hereof, and is hereby referred to for further particulars. All persons interested are hereby required to show cause, if any they have, why such report should not be adopted and confirmed by such Board of Supervisors.

All objections to such adoption of such report shall be in writing and signed by the person objecting, giving post office address, and filed with the Clerk of said Board of Supervisors on or before the — day of —, 189—.

\_\_\_\_\_,  
Clerk of the Board of Supervisors of — County.

SEC. 16. All objections shall be in writing and filed with the Clerk of the Board of Supervisors, who shall, at the next meeting of the Board (whether an adjourned meeting, a regular monthly meeting, or a special meeting called for that purpose) after the day fixed in the notice to show cause, lay the said objections, if any have been filed, before the said Board, which shall, by order, fix a time for hearing the same, and direct the Clerk to notify the objectors in the manner prescribed in section three hereof. At the time fixed for hearing, or at such other time as the hearing may be adjourned to, the Board of Supervisors shall hear such objections and pass upon the same; and at such time, or if there be no objections, at the first meeting

after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the Commissioners to make a new assessment, report, and plat, which shall be filed, notice given, and hearing had as in the case of an original report. When such report has been adopted and confirmed, the said Board may, by order entered upon its minutes, discharge such Commissioners, and their authority shall thereupon cease.

SEC. 17. After said report has been adopted as provided in the preceding section, the Board of Supervisors, if they consider the sum to be raised for the payment of the expenses of such work or improvement too great to be properly expended in one year, or too great to be raised in one year by assessments against the property of such protection district, may, by order entered upon its minutes, provide that any part of such expenses shall be raised or expended in one year, and that such assessments shall continue for a number of years sufficient to raise by assessment, and expend, the total sum required by such report for the work or improvement. When the Board has determined the sum to be assessed for each year, and the number of years that such assessment shall continue, they shall cause the Clerk of the Board of Supervisors to forward to the Tax Collector of the county in which such district is situated, a certified copy of the report, assessment, and plat as adopted and confirmed by the said Board of Supervisors, together with a certified copy of the order of said Board, fixing the sum to be raised by such assessment each year and the number of years such assessment shall continue, and from and after the filing of such certified copy the charges assessed upon each piece of land or improvement thereon for the first year shall become due and payable immediately and shall constitute a lien thereon; and thereafter the assessments for the succeeding years shall become due and payable on the first day of October of each year, and shall, upon becoming due and payable, constitute a lien upon the land or improvements upon which it is assessed. Before such sums become delinquent, the Board of Supervisors shall direct the County Treasurer to transfer from the money then in the General Fund of such county to the fund raised by such assessment, a sum of money to be named in the order, great enough to pay the assessment made against the county for that year for such work and improvements.

SEC. 18. All moneys paid upon such assessments, either by property owners or by the county, and moneys received from any source for the benefit of such protection district, shall be, by the County Treasurer, placed in a fund to be called the — Protection District Fund; and all payments of any of the expenses of the work or improvements or other expenses of such district shall be made upon warrants drawn by the County Auditor upon such fund, and paid by such Treasurer.

SEC. 19. Upon the filing of such certified copy of such report, assessment plat, and order with the Tax Collector of the county, as prescribed in section eighteen hereof, the County Tax Col-

lector shall give notice, by ten days' publication in a newspaper printed in the county, that the assessment list of — Protection District has been filed in his office, with the date of such filing; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday in January next ensuing, the same will become delinquent and will be collected as are delinquent taxes. He shall note on said assessment list all assessments paid, giving receipts as in the payment of taxes, and shall pay all money collected into the County Treasury at the same time and in the same manner as money collected for taxes is paid into said treasury. All subsequent collections of assessments shall be made in the same manner above set forth, and the Tax Collector shall annually (after the first year), immediately after the first day of October, publish a notice containing all the statements required to be made as herein-before in this section set forth, and the same proceedings shall be had as upon the collection of the first assessment.

SEC. 20. When said assessments have become delinquent the Tax Collector of such county shall proceed to collect such delinquent assessments, with five per cent added thereon, and pay the same, including the five per cent so collected, over to the County Treasurer, in the same manner as State and county taxes are collected and paid over; and for the purpose of collecting such assessments and delinquent assessments all of the provisions of chapter seven, title nine, part three, of the Political Code not in conflict with any of the provisions of this Act are hereby made applicable to the collection of assessments and delinquent assessments in such protection districts.

SEC. 21. If, at the completion of such work or improvements, there should be, from any cause, a surplus of money left in such Protection District Fund, the Board of Supervisors may ascertain the pro rata amount belonging to each person paying such assessments, and upon the filing of claims for such rebate, properly itemized, shall refund such money to the parties who paid the same; and when all of such money has been refunded, shall, by order, direct the County Treasurer to abolish such Protection District Fund.

SEC. 22. When sufficient money is in such Protection District Fund to pay for the property taken and damaged, according to the award of damages made in the report adopted by the Board of Supervisors, as provided in section seventeen hereof, the Clerk of the Board of Supervisors shall notify the owner, possessor, or occupant of any land or improvement thereon to whom damages shall have been awarded, that such award has been made, and the amount thereof, and that upon such person filing a claim and tendering a conveyance of any property to be taken, such claim will be allowed and such damages paid. Such notice shall be given by depositing such notice in the post office at the county seat of such county, postage prepaid, addressed to such owner, possessor, or occupant, if his name be known. In case the property is unoccupied, and the name of the owners is unknown, or in case such unoccupied property is set down as belonging to unknown owners for the reasons given

in section fourteen hereof, such notice shall be delivered to the Sheriff or to a Constable, who shall serve the same by posting a copy in a conspicuous place upon the property named in said notice, and indorse a certificate of service upon the original notice, and file the same with the Clerk of the Board of Supervisors.

SEC. 23. Whenever the Clerk of the Board of Supervisors or other officer is, by this Act, empowered to serve any notice by mailing, a certificate of such mailing, in conformity to the provisions of this Act and filed with the records of such Supervisors, shall be sufficient proof of such service.

SEC. 24. If any award of damages is not accepted within fifteen days after the mailing or posting of such notice, it shall be deemed as rejected by the property owner, and thereupon the Board of Supervisors may direct proceedings to procure the right of way to be instituted, in the name of the county, by the District Attorney, under and as provided in title seven, part three, of the Code of Civil Procedure, against all non-accepting property owners; and when thereunder the right of way is procured, the work or improvement must be commenced as herein-after provided. In such suit no informality in the proceedings of the Board of Supervisors, or in the proceedings of the Commissioners, shall vitiate said suit, but the said order of the Board of Supervisors, directing the District Attorney to bring suit, shall be conclusive proof of the regularity thereof; and the said suit shall be determined by the Court or jury in accordance with the rights of the respective parties as shown in Court, independent of said proceedings before said Board of Supervisors or before said Commissioners.

SEC. 25. If any right of way, attempted to be acquired by virtue of this Act, shall be found to be defective from any cause, the Board of Supervisors may again institute proceedings to acquire the right of way as in this Act provided, or otherwise, or may purchase the same and include the cost thereof in the expenses of such work or improvement.

SEC. 26. The Board of Supervisors shall determine the amount of work to be done in each year and the place where such work is to be done, and may let a contract for any portion of such work that they may think proper. When the work is let by contract, either as a whole work or for a portion thereof, the Board shall give notice, by publication thereof, not less than ten days, in a newspaper published in such county, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the Board, and that the Board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposal, and how such sealed proposals shall be addressed, which, at the time and place appointed, shall be opened, and, as soon thereafter as convenient, the Board shall let said work, either in portions or as a whole, to the lowest

responsible bidder; or they may reject any and all bids and readvertise for proposals. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the Board, payable to said county for the use of such protection district, for double the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the Board of Supervisors.

SEC. 27. If, according to the survey and map as adopted by the Board of Supervisors, as provided in section seven hereof, it is necessary, in order to shorten or straighten the course of any innavigable stream, to dig canals, cut off bends, change the channel or course of such stream, or to turn the water from its present channel into a former but now dry channel, then such work shall be considered as the straightening of the channel and course of such innavigable stream, and all of the provisions of this Act are hereby declared to be applicable to such work.

SEC. 28. If, at any time, in the opinion of the Board of Supervisors, the expenditure of money is absolutely necessary to the welfare of such protection district, and there is no money in the fund of such district to make such necessary expenditure, or the money in such fund is insufficient to make such necessary expenditure, then the Board of Supervisors may advance such money out of the General Fund of the county, and the same shall be a credit to the county as a payment of the assessments against the county to that extent; or if such money advanced shall exceed the assessments against the county, then as soon as there is sufficient money in the fund of such protection district to pay the excess, the Board of Supervisors shall direct the County Treasurer to transfer to the General Fund from the fund of such protection district, a sum great enough to balance the accounts.

SEC. 29. The provisions of this Act shall be liberally construed to promote the objects thereof.

This Act shall take effect and be in force from and after its passage.

CHAPTER CCII.

*An Act to amend sections six hundred and twenty-six, six hundred and thirty-one, six hundred and thirty-two, six hundred and thirty-three, six hundred and thirty-four, six hundred and thirty-five, and six hundred and thirty-six of, and to add nineteen new sections, to be numbered six hundred and twenty-six a, six hundred and twenty-six b, six hundred and twenty-six c, six hundred and twenty-six d, six hundred and twenty-six e, six hundred and twenty-six f, six hundred and twenty-six g, six hundred and twenty-six h, six hundred and twenty-six i, six hundred and twenty-seven, six hundred and twenty-seven a, six hundred and twenty-seven b, six hundred and twenty-seven c, six hundred and twenty-seven d, six hundred and twenty-eight, six hundred and twenty-eight a, six hundred and twenty-nine, six hundred and thirty-two a, six hundred and thirty-two b, to an Act entitled "An Act to establish a Penal Code," approved February 14, 1872, relating to fish and game.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section six hundred and twenty-six of an Act entitled "An Act to establish a Penal Code," approved February fourteenth, eighteen hundred and seventy-two, is hereby amended to read as follows:

626. Every person who, in the State of California, between the fifteenth day of February and the fifteenth day of October in each year, shall hunt, pursue, take, kill, or destroy, or have in his possession, whether taken in the State of California, or shipped into the State from any other State, Territory, or foreign country, except for purposes of propagation, any valley quail, bob-white, partridge, robin, or any kind of wild duck or rail, shall be guilty of a misdemeanor; provided, that the right to have in possession for the purposes of propagation shall first be obtained, by permit, in writing, from the Game Warden of the county wherein said birds are to be caught.

SEC. 2. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six a, to read as follows:

626a. Every person who, in the State of California, between the fifteenth day of February and the fifteenth day of August in each year, shall hunt, pursue, take, kill, or destroy, or have in his possession, whether taken or killed in the State of California, or shipped into the State from any other State, Territory, or foreign country, except for purposes of propagation, any mountain quail, or grouse, shall be guilty of a misdemeanor; provided, that the right to have in possession for the purposes of propagation shall first be obtained, by permit, in writing, from the Game Warden of the county wherein said birds are to be caught. Every person who, in the State of California,

shall take, gather, or destroy the eggs of any quail, bob-white, partridge, pheasant, grouse, dove, or robin, or any kind of wild duck, shall be guilty of a misdemeanor.

SEC. 3. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *b*, to read as follows:

626*b*. Every person who, in the State of California, between the fifteenth day of February and the first day of July in each year, shall hunt, pursue, take, kill, or destroy, or have in his possession any dove or doves, shall be guilty of a misdemeanor.

SEC. 4. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *c*, to read as follows:

626*c*. Every person who, in the State of California, shall hunt, pursue, take, kill, or destroy any male deer, between the fifteenth day of October and the fifteenth day of July of the following year, shall be guilty of a misdemeanor.

SEC. 5. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *d*, to read as follows:

626*d*. Every person who, in the State of California, shall at any time hunt, pursue, take, kill, or destroy any female deer, or spotted fawn, or any antelope, elk, or mountain sheep, shall be guilty of a misdemeanor.

SEC. 6. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *e*, to read as follows:

626*e*. Every person who, in the State of California, shall at any time buy, sell, or offer for sale the hide or meat of any deer, elk, antelope, or mountain sheep, whether taken or killed in the State of California, or shipped into the State from any other State or Territory, shall be guilty of a misdemeanor; *provided*, that nothing in this section shall be held to apply to the hide of any of said animals taken or killed in Alaska, or any foreign country.

SEC. 7. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *f*, to read as follows:

626*f*. Every person who shall buy, sell, offer, or expose for sale, transport, or carry, or have in his possession the skin, hide, or pelt of any deer from which the evidence of sex has been removed, shall be guilty of a misdemeanor.

SEC. 8. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *g*, to read as follows:

626*g*. Every person who, in the State of California, shall, within the three years next after the passage of this Act, hunt, pursue, take, kill, or destroy, or have in his possession, except for the purposes of propagation, any pheasant, shall be guilty of a misdemeanor.

SEC. 9. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *h*, to read as follows:

626h. Every cold-storage company, person keeping a cold-storage warehouse, tavern or hotel keeper, restaurant or eating-house keeper, marketman, or other person, who shall buy, sell, expose, or offer for sale, or give away, or have in his possession, in this State, any quail, bob-white, partridge, pheasant, grouse, dove, or wild duck, during the time it shall be unlawful to kill such birds, whether taken or killed in the State of California, or shipped into the State from any other State, Territory, or foreign country, shall be guilty of a misdemeanor.

SEC. 10. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-six *i*, to read as follows:

626i. Every cold-storage company, and every person keeping a cold-storage warehouse, tavern, hotel, restaurant, or eating-house, and every marketman or other person, who shall buy, sell, expose, or offer for sale, in this State, any quail, bob-white, partridge, grouse, dove, or wild duck, whether taken or killed in the State of California, or shipped into the State from any other State, Territory, or foreign country, except between the fifteenth day of November and the fifteenth day of January of the following year, shall be guilty of a misdemeanor.

SEC. 11. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-seven, to read as follows:

627. Every person who shall use a shotgun of a larger caliber than that commonly known and designated as a number ten gauge, shall be guilty of a misdemeanor. The proof of the possession of said gun in the field, on marsh, bay, lake, or stream, shall be *prima facie* evidence of its illegal use.

SEC. 12. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-seven *a*, to read as follows:

627a. Every person who, upon any inclosed or cultivated grounds, which are private property, and where signs are displayed forbidding such shooting, except salt water marsh land, shall shoot any quail, bob-white, pheasant, partridge, grouse, dove, deer, or wild duck, without permission first obtained from the owner or person in possession of such grounds, or who shall maliciously tear down, mutilate, or destroy any sign, signboard, or other notice forbidding shooting on private property, shall be guilty of a misdemeanor.

SEC. 13. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-seven *b*, to read as follows:

627b. Every railroad company, express company, transportation company, or other common carrier, their officers, agents, and servants, and every other person, who shall transport, carry, or take out of this State, or shall receive for the purpose of transporting from the State, any deer, deer skin, buck, doe, or fawn, or any quail, partridge, pheasant, grouse, prairie chicken, dove, or wild duck, except for purposes of propagation, or who shall transport, carry, or take from the State, or receive for the purpose of transporting from this State, any

such animal or bird, shall be guilty of a misdemeanor; *provided*, that the right to transport for the purposes of propagation shall first be obtained by permit, in writing, from the Board of Fish Commissioners of the State of California.

SEC. 14. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-seven *c*, to read as follows:

627*c*. Every person who, in the State of California, shall at any time hunt, shoot, shoot at, take, kill, or destroy, buy, sell, give away, or have in his possession, except for the purpose of propagation, or for educational or scientific purposes, any English sky-lark, canary, California oriole, hummingbird, thrush, or mocking-bird, or any part of the skin, skins, or plumage thereof, or who shall rob the nests, or take or destroy the eggs, of any of the said birds, shall be guilty of a misdemeanor.

SEC. 15. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-seven *d*, to read as follows:

627*d*. Any person found guilty of a violation of any of the provisions of the foregoing sections of this chapter shall be fined in a sum not less than twenty dollars, or be imprisoned in the county jail in the county in which the conviction shall be had not less than ten days, or be punished by both such fine and imprisonment. All moneys so collected shall be paid into the General Fund of the county in which the conviction is had. It shall be no defense to a prosecution under this section, or for the violation of any provision of the law for the protection or preservation of fish or game, that the fish or game was caught or killed outside of this State.

SEC. 16. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-eight, to read as follows:

628. Every person who takes or catches, buys, sells, or has in his possession any striped bass of less than three pounds in weight, is guilty of a misdemeanor. Every person who, at any time, buys, sells, offers or exposes for sale, or has in his possession any sturgeon less than three feet in length is guilty of a misdemeanor. Every person who, at any time between the first day of April and the first day of September of each year, takes or catches, buys, sells, or has in his possession any fresh sturgeon is guilty of a misdemeanor. Any person found guilty of a violation of any of the provisions of this section shall be fined in a sum not less than fifty dollars or be imprisoned in the county jail in the county in which the conviction shall be had not less than fifty days, or be punished by both such fine and imprisonment. It shall be no defense in the prosecution for a violation of the provisions of this section that the sturgeon sold or possessed were caught outside of this State. Every person who, between the first day of January and the first day of July, takes or catches, buys, sells, or has in his possession any black bass is guilty of a misdemeanor.

SEC. 17. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-eight *a*, to read as follows:

628*a*. Every person who, in the State of California, shall take, catch, or kill, or sells, exposes or offers for sale, or has in his possession any lobster or crawfish, between the fifteenth day of May and the fifteenth day of July of each year, shall be guilty of a misdemeanor. Every person who, in the State of California, shall at any time buy, sell, barter, exchange, offer, expose for sale, or have in his possession any lobster or crawfish of less than one pound in weight, shall be guilty of a misdemeanor. It shall be no defense in a prosecution for a violation of the provisions of this section that the lobsters or crawfish sold or possessed were caught outside of this State.

SEC. 18. A new section is hereby added to said Penal Code, to be numbered section six hundred and twenty-nine, to read as follows:

629. Any person or persons, corporation or corporations, owning, in whole or in part, or leasing, operating, or having in charge, any mill race, irrigating ditch, or canal, taking or receiving its waters from any river, creek, stream, or lake in which fish have been placed or may exist, shall put, or cause to be placed and maintain over the inlet of said ditch, canal, or mill race, a wire screen of such construction and fineness, strength and quality, as shall prevent any such fish from entering such ditch, canal, or mill race, when required to do so by the Fish Commissioners. Any person or corporation violating the provisions of this section, or who shall neglect or refuse to put up or maintain such screen, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, and may be imprisoned at the rate of two dollars per day until such fine be paid or satisfied; *provided*, that the continuance from day to day of the neglect or refusal, after notification in writing by the Fish Commissioners, shall constitute a separate offense.

SEC. 19. Section six hundred and thirty-one of the same Act is hereby amended to read as follows:

631. Every person who shall, at any time, net or pound, cage or trap, any quail, partridge, or grouse, and every person who shall sell, transport, or give away, or offer or expose for sale, or have in his possession any quail, partridge, or grouse that has been snared, captured, or taken by means of any net or pound, cage or trap, whether taken in the State of California, or shipped into the State from any other State, Territory, or foreign country, is guilty of a misdemeanor; *provided*, the same may be taken for the purposes of propagation, written permission having been first obtained from the Game Warden of the county wherein said birds are to be taken. Proof of possession of any quail, partridge, or grouse, which shall not show evidence of having been taken by means other than a net or pound, shall be *prima facie* evidence in any prosecution for violation of the provisions of this section that the person in whose possession such quail,

partridge, or grouse is found, took, killed, or destroyed the same by means of net or pound.

SEC. 20. Section six hundred and thirty-two of the same Act is hereby amended to read as follows:

**632.** Every person who, in the State of California, at any time takes or catches any trout, except with hook and line, is guilty of a misdemeanor.

SEC. 21. A new section is hereby added to said Penal Code, to be numbered section six hundred and thirty-two *a*, to read as follows:

**632a.** Any person who shall place, or cause to be placed, in any of the waters of the State, dynamite, gunpowder, or other explosive compound, for the purpose of killing or taking fish, or who shall at any time take, procure, kill, or destroy any fish of any kind by means of explosives, shall be guilty of a misdemeanor. Every person found guilty of a violation of any of the provisions of this section shall be fined in a sum not less than one hundred dollars, or be imprisoned in the county jail in the county in which the conviction shall be had not less than one hundred days, or be punished by both such fine and imprisonment.

SEC. 22. A new section is hereby added to said Penal Code, to be numbered six hundred and thirty-two *b*, to read as follows:

**632b.** Every person who shall at any time, except with hook and line, take or catch fish of any kind, from any river or stream within the State of California, upon which a United States fish hatchery is in operation, shall be guilty of a misdemeanor.

SEC. 23. Section six hundred and thirty-three of the same Act is hereby amended to read as follows:

**633.** Every person who takes, catches, or kills, or exposes for sale, or has in his possession, any speckled trout, brook or salmon trout, or any variety of trout, between the first day of November and the first day of April in the following year, is guilty of a misdemeanor; *provided, however*, that steel-head trout may be possessed at any time, when taken with rod and line in tide water. Every person who buys or sells, or offers or exposes for sale, within this State, any kind of trout less than six inches in length, is guilty of a misdemeanor.

SEC. 24. Section six hundred and thirty-four of the same Act is hereby amended to read as follows:

**634.** Every person who, between the thirty-first day of August and the first day of November of each year, takes or catches, buys, sells, offers or exposes for sale, or has in his possession any fresh salmon, is guilty of a misdemeanor. Every person who shall set or draw, or assist in setting or drawing, any net or seine for the purpose of taking or catching salmon, shad, or striped bass in any of the public waters of this State, at any time between sunrise of each Saturday and sunset of the following Sunday, is guilty of a misdemeanor. Every person who shall, for the purpose of catching shad, salmon, or striped bass in any of the public waters of this State, fish with

or use any seine or net, drag net or paranzella, the meshes of which are, when drawn closely together and measured inside the knot, less than seven and one half inches in length, is guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, or in default, not less than one hundred days in the county jail. All moneys collected for fines for the violation of any of the provisions of this chapter shall be paid into the General Fund of the county in which the conviction is had.

SEC. 25. Section six hundred and thirty-five of the same Act is hereby amended to read as follows:

635. Every person who places or allows to pass into any of the waters of this State any lime, gas, tar, coccus indicus, sawdust, shavings, slabs, edgings, mill or factory refuse, or any substance deleterious to fish, is guilty of a misdemeanor. Every person who shall catch, take, or carry away any trout or other fish from any stream, pond, or reservoir, belonging to any person or corporation, without the consent of the owner thereof, which stream, pond, or reservoir has been stocked with fish by hatching therein eggs or spawn, or by placing the same therein, is guilty of a misdemeanor. Any person found guilty of a violation of any of the provisions of this section shall be fined in a sum not less than one hundred dollars, or be imprisoned in the county jail in the county in which the conviction shall be had not less than fifty days, or be punished by both such fine and imprisonment.

SEC. 26. Section six hundred and thirty-six of the same Act is hereby amended to read as follows:

636. Every person who shall set, use, or continue, or who shall assist in setting, using, or continuing any pound, weir, set-net, trap, or any other fixed or permanent contrivance for catching fish in the waters of this State, is guilty of a misdemeanor. Any net shall be considered a set-net when fastened in any way to a fixed or stationary object. Every person who shall cast, extend, or set any seine or net of any kind, for the catching of fish in any river, stream, or slough of this State, which shall extend more than one third across the width of said river, stream, or slough, at the time and place of such fishing, is guilty of a misdemeanor. Every person who shall cast, extend, set, use, or continue, or who shall assist in casting, extending, using, or continuing "Chinese shrimp or bag-nets," or nets of similar character, for the catching of fish in the waters of this State, is guilty of a misdemeanor. Every person who shall cast, extend, set, use, or continue, or have in his possession, or who shall assist in casting, extending, using, or continuing "Chinese sturgeon lines," or lines of similar character, is guilty of a misdemeanor. Every person who, by seine or other means, shall catch the young fish of any species, and who shall not return the same to the water immediately and alive, or who shall sell or offer for sale any such fish, fresh or dried, is guilty of a misdemeanor. Any person found guilty of a violation of any of the provisions of this section shall be fined in a sum not less than one hundred dollars, or be imprisoned

in the county jail in the county in which the conviction shall be had not less than one hundred days, or be punished by both such fine and imprisonment. Nothing in this chapter shall prohibit the United States Fish Commissioners, or the Fish Commissioners of the State, from taking such fish as they deem necessary for the purpose of artificial hatching at all times.

SEC. 27. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 28. This Act shall take effect from and after its passage.

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### CHAPTER CCIII.

*An Act to create a Bureau of Highways, and prescribe its duties and powers, and to make an appropriation for its expenses.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Within ten days after the passage of this Act the Governor shall appoint three competent persons to compose a Bureau of Highways, who shall hold office for two years from the date of their qualifying. The persons so appointed shall be selected with particular reference to their qualifications for the duties devolving on them. They shall not be actively engaged in any other pursuit while serving as such Commissioners, and shall devote their entire time to the services of the Bureau of Highways. In case of a vacancy occurring on the said Bureau, the Governor shall, within ten days, appoint a person of proper qualifications to fill such vacancy.

SEC. 2. The members of the Bureau of Highways, before entering on the duties of their office, must execute an official bond in the sum of five thousand dollars, and take the oath of office as prescribed in the Political Code for the State officers in general.

SEC. 3. Among the duties of the Bureau of Highways shall be to gather from each county in the State statistics showing the total mileage of highways, their condition of improvement, the condition of the titles to the right of way, the method of obtaining title and of keeping the records thereof, the method of procedure in granting, closing, and altering roads, and the manner of preserving the records of the same, the manner in which roads are constructed and maintained, the manner of payment for the construction and maintenance of roads, the manner in which the accounts pertaining to the same are kept, the manner in which the money for highway purposes is raised, the amount expended in the past ten years for highway purposes, with the rate of taxation on one hundred dollars that is apportioned to the Road Fund. It shall inquire into the topographical and geological features of each county, and more particularly with reference to the accessibility of water for

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road-sprinkling purposes, and stone quarries, deposits of gravel, bituminous rock, sand, adobe, or any other materials suitable for road-making purposes. It shall ascertain all laws, now in force in this State, appertaining to the highways, and shall segregate all such as in the judgment of the members of the Bureau are ineffective or obsolete from such as are effective. Inquiry shall be made into what laws and methods are in use in other States in regard to road matters, and an abstract shall be made of such as are best adapted to the State of California. It shall prepare such cross-sections of roads, plans for draining or watering of roads, and for culverts, small bridges, and road appliances as may be deemed expedient. It shall prepare such blank forms as may be necessary to systemize all Acts pertaining to the highways, and shall furthermore make any other inquiries in matters regarding highway improvement as will be of interest or benefit to the objects of the said Bureau. Information and advice shall be furnished by the Bureau of Highways, on matters connected with highway improvement and kindred subjects, at any and all times, to all county officials, or others connected with the highways, who may apply for the same, and any and all such information and advice shall be furnished free of charge. It shall receive orders for road material, to be prepared at the State Prisons, and shall forward the same to the governing body of the prisons, and in case the orders exceed the rate of supply, shall make an equitable distribution of the product.

SEC. 4. One or more members of the Bureau of Highways shall visit each county in the State at least once in each year, and shall hold therein a public meeting, at which there shall be an open discussion of all matters relating to highways or highway improvement.

SEC. 5. The Bureau of Highways shall have power to call on the Clerk of the Board of Supervisors, Surveyor, Auditor, or any other official, for such assistance as may be necessary for gathering the information it may desire. It may take testimony of any persons deemed necessary, in relation to matters pertaining to highways, and shall, in doing so, follow the methods set forth in an Act entitled "An Act creating a Board of Bank Commissioners."

SEC. 6. The members of the Bureau of Highways shall each receive a salary of three thousand dollars per annum, which shall be audited by the State Controller, and paid by the State Treasurer, in the same manner as are salaries of other State officials.

SEC. 7. Within ten days after the appointment of the members of the Bureau of Highways, they shall assemble at the office of the Surveyor-General at the State Capitol, in the city of Sacramento, and shall be called to order by that official, and shall forthwith elect a Chairman from among their number, who shall preside at all the meetings of said Bureau of Highways, and exercise the duties usually devolving upon a presiding officer.

SEC. 8. The office of the Bureau of Highways shall be located in the State Capitol building, in the city of Sacramento. The Secretary of State is hereby directed to provide said Bureau of Highways with a room suitably furnished for that purpose. The office before named shall be the office of the Bureau of Highways, but the members thereof shall visit such portions of the State and at such times as they may deem advisable or the duties devolving on them may require.

SEC. 9. The Bureau of Highways shall have the power to employ such clerical, expert, or other assistance as may be necessary for the purpose of conducting the affairs of its office, subject to the approval of the State Board of Examiners. The members of the Bureau of Highways, or any employé thereof, shall be allowed their actually necessary traveling expenses when in the discharge of their duty. The Bureau of Highways shall be allowed all necessary supplies and conveniences for the purpose of conducting the affairs of its office. All claims against the State, contracted by the Bureau of Highways, shall, before payment, be examined, audited, and approved by the Board of Examiners.

SEC. 10. The Bureau of Highways shall have a seal, which shall be affixed to all necessary papers and documents in the usual manner. It shall also cause to be kept proper books, as records of all acts done by it under the provisions of this Act.

SEC. 11. It shall be the duty of the State Mineralogist to furnish the Bureau of Highways such data and information as it may call for.

SEC. 12. It shall be the duty of the Attorney-General to advise the Bureau of Highways on all legal matters, when requested to do so.

SEC. 13. It shall be the duty of the Bureau of Highways to prepare a report, which shall be submitted to the Governor, in the manner and at the time prescribed by law for the submission of such reports. Said report shall embrace the work and investigation of the Bureau for the previous two years, with recommendations that will be useful in framing a practicable road law, together with such information as will be useful in the improvement of the highways. There shall also be published from time to time, as may be deemed advisable by the Bureau, bulletins containing useful recommendations and instructions regarding highway construction, maintenance, and kindred subjects.

SEC. 14. It shall be the duty of the State Printer, upon proper order from the Board of Examiners, to print the report of the Bureau of Highways, together with such bulletins as it may desire to publish, and the distribution shall be made under proper order from the Board of Examiners.

SEC. 15. The Bureau of Highways shall, upon the expiration of its existence, which shall be two years after its organization, deliver to the State Controller, all property, books, reports, and papers of every description pertaining to its office.

SEC. 16. The sum of thirty-one thousand dollars is hereby appropriated out of any money in the General Fund of the

State Treasury not otherwise appropriated, to pay the expenses of the said Bureau, and the State Controller is hereby directed to draw his warrant for the same from time to time, as necessary, and the State Treasurer is hereby directed to pay the same. Said appropriation shall cover all the expenses of the Bureau of Highways, and in no case shall an indebtedness over and above the amount so appropriated be created or allowed. One half of the appropriation herein made shall be available during the forty-seventh fiscal year, and the other half during the forty-eighth fiscal year.

SEC. 17. All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 18. This Act shall take effect and be in force from and after its passage and approval.

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#### CHAPTER CCIV.

*An Act to amend an Act entitled "An Act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, by amending section eight hundred and fifty-one thereof, relative to the officers of municipal incorporations of the sixth class.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section eight hundred and fifty-one of said Act is hereby amended to read as follows:

*Officers:*

Section 851. The government of such city or town shall be vested in a Board of Trustees, to consist of five members; a Clerk, who shall be ex officio Assessor; a Treasurer; a Marshal, who shall be ex officio Tax and License Collector; a Recorder, to be appointed by the Board of Trustees; and such subordinate officers as are hereinafter provided for.

This Act shall take effect from and after its passage.

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#### CHAPTER CCVI.

*An Act authorizing the payment of salaries by Boards of Supervisors to persons who have been employed to collect county licenses, and legalizing all payments heretofore made to such persons.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. That the Board of Supervisors of any county in which such Board has appointed persons to collect the county

license, are hereby empowered and directed to pay to any person so appointed, and who have actually performed services in collecting such licenses, the amount agreed upon as compensation for such services at the time of such appointment; *provided*, that no such payment shall be made for services rendered after the passage of this Act.

SEC. 2. All acts of such Board in making such appointment and payment made by them for services heretofore rendered in the collection of such licenses, are hereby approved and legalized.

SEC. 3. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CCVII.

*An Act to establish the fees of county, township, and other officers, and of jurors and witnesses, in this State.*

[Approved March 28, 1896.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The following county, township, and other officers shall charge and collect the following fees:

### COUNTY CLERK.

On the commencement of any action or proceeding in the Superior Court, except probate proceedings, or on an appeal thereto, to be paid by the party commencing such action or proceeding, or taking such appeal, five dollars.

On the filing of a petition for letters of administration, testamentary, or guardianship, five dollars, to be paid by the petitioner; *provided*, that at the time of filing the inventory and appraisement in any such proceeding there shall be an additional deposit of one dollar for each additional thousand dollars of the appraised valuation, in excess of three thousand dollars.

On filing the petition to contest any will or codicil, three dollars.

On the appearance of any defendant, or any number of defendants answering jointly, to be paid upon filing the first paper in the action by him or them, two dollars.

On placing any action, excepting a probate proceeding or default case, on the calendar for trial or hearing, to be paid by the party at whose request such action or proceeding is so placed, two dollars.

For every additional defendant appearing separately, one dollar.

The foregoing fees shall be in full for all services rendered by such Clerk in the cause, to and including the making up of the judgment roll.

On the filing of any notice of motion to move for a new trial

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of any civil action or proceeding, the party filing same shall pay to the Clerk, in full for all services to be rendered in connection with said motion, except as hereinafter in this section provided, two dollars.

For issuing an execution or order of sale in any action, one dollar.

In all proceedings begun or acts performed prior to this Act becoming a law, such fees and charges as were provided by law at the time such proceedings were begun or acts performed.

The Clerk shall also charge and collect the following fees and compensation not above provided for:

For any copy of any record, proceeding, or paper on file in the office of the Clerk relating to any civil action pending in said Court, when such copy is made by him, per folio, ten cents.

For each certificate of the Clerk, under the seal of the Court, twenty-five cents.

For filing each claim in probate or insolvency proceedings, fifteen cents.

No fees shall be allowed or charged by the Clerk for services rendered in any criminal case.

For services rendered by the Clerk, not in connection with civil actions or proceedings in Court, he shall charge and collect, for the benefit of the county, the following fees:

For issuing marriage license, one half to be paid to the County Recorder, two dollars.

For filing and indexing articles of incorporation, one dollar.

For filing and indexing certificates of co-partnership, one dollar.

For filing and indexing all papers to be kept by him, other than papers filed in actions or proceedings in Court, and official bonds and certificates of appointment, each, twenty-five cents.

For issuing any license required by law, other than marriage licenses, one dollar.

For examining and certifying to a copy of any paper, record, or proceeding prepared by another, and presented for his certificate, fifty cents, and one cent per folio for comparing the said copy with the original.

For making satisfaction of or credit on judgment, twenty-five cents.

For receiving and filing remittitur from Supreme Court, fifty cents.

For administering each oath, without certificate, except in a pending action or proceeding, ten cents.

For taking any affidavit, except in criminal cases, twenty-five cents.

For taking and approving each undertaking, and the justification thereof, except in criminal cases, fifty cents.

For searching records or files, for each year, fifty cents.

For taking acknowledgment of any deed or other instrument, including the certificate, fifty cents.

For filing notices of appeal and appeal bonds, each, twenty-five cents.

SHERIFF.

For serving any process, writ, order, or paper, except as hereinafter provided, required by law to be served by the Sheriff, fifty cents.

For serving a writ of attachment, execution, or order for the delivery of personal property, one dollar.

For taking any bond or undertaking, fifty cents.

For serving an attachment or execution on any ship, boat, or vessel, three dollars.

For keeping and caring for property under attachment or execution, such sum as the Court may fix; *provided*, that no greater sum than two dollars per day shall be allowed to a keeper when necessarily employed.

For a copy of any writ, process, or paper actually made by him, when required or demanded according to law, per folio, ten cents; *provided*, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For advertising sale of property and posting notice, exclusive of cost of publication, or furnishing notice for publication, each, fifty cents.

For publication of notice in newspaper, the reasonable cost of publication, subject to the approval of the Court.

For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupant, one dollar and fifty cents.

For subpoenaing witness, including copy of subpoena, each, twenty-five cents.

For summoning trial jury of twelve or less, two dollars; for each additional juror, ten cents.

For traveling in the service of any paper required by law to be served, for each mile actually and necessarily traveled, one way only, fifteen cents, when such travel can be made by rail; in other cases, twenty-five cents. No constructive mileage to be allowed.

For collecting money on execution, with or without levy, one per cent on the first thousand dollars or less, and one half of one per cent on all sums over one thousand dollars.

For executing and delivering Sheriff's deed, one dollar and fifty cents.

For executing and delivering certificate of sale, fifty cents.

For transporting prisoners to the county jail, the actual cost of such transportation.

For executing and delivering any other instrument, ten cents per folio.

RECORDER.

For recording every instrument, paper, or notice required by law to be recorded, per folio, ten cents.

For indexing every instrument, paper, or notice, for each name, ten cents.

For filing every instrument for record, and making the necessary entries thereon, twenty cents.

or use any seine or net, drag net or paranzella, the meshes of which are, when drawn closely together and measured inside the knot, less than seven and one half inches in length, is guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, or in default, not less than one hundred days in the county jail. All moneys collected for fines for the violation of any of the provisions of this chapter shall be paid into the General Fund of the county in which the conviction is had.

SEC. 25. Section six hundred and thirty-five of the same Act is hereby amended to read as follows:

635. Every person who places or allows to pass into any of the waters of this State any lime, gas, tar, coccus indicus, sawdust, shavings, slabs, edgings, mill or factory refuse, or any substance deleterious to fish, is guilty of a misdemeanor. Every person who shall catch, take, or carry away any trout or other fish from any stream, pond, or reservoir, belonging to any person or corporation, without the consent of the owner thereof, which stream, pond, or reservoir has been stocked with fish by hatching therein eggs or spawn, or by placing the same therein, is guilty of a misdemeanor. Any person found guilty of a violation of any of the provisions of this section shall be fined in a sum not less than one hundred dollars, or be imprisoned in the county jail in the county in which the conviction shall be had not less than fifty days, or be punished by both such fine and imprisonment.

SEC. 26. Section six hundred and thirty-six of the same Act is hereby amended to read as follows:

636. Every person who shall set, use, or continue, or who shall assist in setting, using, or continuing any pound, weir, set-net, trap, or any other fixed or permanent contrivance for catching fish in the waters of this State, is guilty of a misdemeanor. Any net shall be considered a set-net when fastened in any way to a fixed or stationary object. Every person who shall cast, extend, or set any seine or net of any kind, for the catching of fish in any river, stream, or slough of this State, which shall extend more than one third across the width of said river, stream, or slough, at the time and place of such fishing, is guilty of a misdemeanor. Every person who shall cast, extend, set, use, or continue, or who shall assist in casting, extending, using, or continuing "Chinese shrimp or bag-nets," or nets of similar character, for the catching of fish in the waters of this State, is guilty of a misdemeanor. Every person who shall cast, extend, set, use, or continue, or have in his possession, or who shall assist in casting, extending, using, or continuing "Chinese sturgeon lines," or lines of similar character, is guilty of a misdemeanor. Every person who, by seine or other means, shall catch the young fish of any species, and who shall not return the same to the water immediately and alive, or who shall sell or offer for sale any such fish, fresh or dried, is guilty of a misdemeanor. Any person found guilty of a violation of any of the provisions of this section shall be fined in a sum not less than one hundred dollars, or be imprisoned

in the county jail in the county in which the conviction shall be had not less than one hundred days, or be punished by both such fine and imprisonment. Nothing in this chapter shall prohibit the United States Fish Commissioners, or the Fish Commissioners of the State, from taking such fish as they deem necessary for the purpose of artificial hatching at all times.

SEC. 27. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 28. This Act shall take effect from and after its passage.

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### CHAPTER CCIII.

*An Act to create a Bureau of Highways, and prescribe its duties and powers, and to make an appropriation for its expenses.*

[Approved March 27, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Within ten days after the passage of this Act the Governor shall appoint three competent persons to compose a Bureau of Highways, who shall hold office for two years from the date of their qualifying. The persons so appointed shall be selected with particular reference to their qualifications for the duties devolving on them. They shall not be actively engaged in any other pursuit while serving as such Commissioners, and shall devote their entire time to the services of the Bureau of Highways. In case of a vacancy occurring on the said Bureau, the Governor shall, within ten days, appoint a person of proper qualifications to fill such vacancy.

SEC. 2. The members of the Bureau of Highways, before entering on the duties of their office, must execute an official bond in the sum of five thousand dollars, and take the oath of office as prescribed in the Political Code for the State officers in general.

SEC. 3. Among the duties of the Bureau of Highways shall be to gather from each county in the State statistics showing the total mileage of highways, their condition of improvement, the condition of the titles to the right of way, the method of obtaining title and of keeping the records thereof, the method of procedure in granting, closing, and altering roads, and the manner of preserving the records of the same, the manner in which roads are constructed and maintained, the manner of payment for the construction and maintenance of roads, the manner in which the accounts pertaining to the same are kept, the manner in which the money for highway purposes is raised, the amount expended in the past ten years for highway purposes, with the rate of taxation on one hundred dollars that is apportioned to the Road Fund. It shall inquire into the topographical and geological features of each county, and more particularly with reference to the accessibility of water for

For each certificate under seal, twenty-five cents.

For every entry of discharge, credit, or release on the margin of record, and indexing same, twenty-five cents.

For searching the records of his office, for each year, fifty cents.

For abstract of title, for each conveyance or incumbrance, twenty-five cents.

For recording each map or plat where the same is copied in a book of record, for each course, ten cents.

For recording each map or plat where the same is not copied in a book of record, fifty cents.

For figures or letters on maps or plats, per folio, ten cents; *provided*, that the fees for recording any map shall not exceed fifty dollars.

For taking acknowledgment of any instrument, fifty cents.

For recording marriage license and certificate, to be paid by the County Clerk, one dollar.

For recording transcript and all services in estray cases, one dollar.

For recording each mark or brand, fifty cents.

For administering each oath or affirmation, and certifying the same, twenty-five cents.

For filing, indexing, and keeping each paper not required by law to be recorded, twenty-five cents.

The Clerk, Sheriff, and Recorder shall account for all fees in this section provided for, and the Clerk, Sheriff, and Recorder, unless otherwise provided by law, shall pay the same to the County Treasurer on the first Monday of the month following their collection, as provided in this Act.

#### CONSTABLES AND MARSHALS.

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat, or vessel, three dollars.

For keeping personal property, such sum as the Court may order; but no more than two dollars per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs and other papers, except summons, complaint, and subpœnas, per folio, ten cents; *provided*, that when correct copies are furnished him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint, or subpœnas, for each person served, fifty cents.

For writing and posting each notice of sale of property, twenty-five cents.

For furnishing notice for publication, twenty-five cents.

For serving subpœnas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering Constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order, or paper, except a warrant of arrest, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order, or paper, in going only, fifteen cents; *provided*, that a Constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage allowed.

For each mile necessarily traveled within his county in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents.

For each mile traveled out of his county, both going and returning from place of arrest, five cents; *provided*, that no mileage shall be charged for a warrant of arrest or criminal process served outside of his township, except such service be approved in writing by the District Attorney of the county; and *provided further*, that for traveling in the performance of two or more official services at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged; *provided*, that in criminal cases he shall not receive more than one hundred dollars in any one month, and not more than one thousand dollars in any one year.

For executing a search warrant, such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner and bringing him into Court, one dollar.

For summoning a jury, two dollars, including mileage.

For transporting prisoners to the county jail, the actual cost of such transportation.

*Provided*, that the Board of Supervisors may reject all bills presented to the county by Justices of the Peace and Constables for fees in criminal cases in all cases of proceedings in which the District Attorney has not, in writing, approved the issuance of the warrant of arrest.

County officers must, and township officers may, demand the payment of all fees in civil cases, in advance.

#### JUSTICES OF THE PEACE.

Justices of the Peace may, for their own use, collect the following fees, and no others:

Each Justice of the Peace shall be allowed, in a civil action before him, for all services to be performed by him before trial, two dollars; and for the trial and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment and issue of execution thereon, three

dollars; and in all cases where judgment is rendered by default or confession, for all services, including execution and satisfaction of judgment, two dollars.

For all services in a criminal action or proceeding, whether on examination or trial, three dollars; *provided, however,* that no more than the sum of seventy-five dollars in any one month shall be allowed out of the County Treasury, in misdemeanor cases, to any one Justice.

For taking bail after commitment by another magistrate, fifty cents.

For certificate and transmitting transcript and papers on appeal, one dollar.

For copies of papers on docket, per folio, ten cents.

For issuing a search warrant, to be paid by the party demanding the same, fifty cents.

For celebrating a marriage, and returning a certificate thereof to the County Recorder, three dollars.

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents.

For taking depositions, per folio, fifteen cents.

For administering an oath, and certifying the same, twenty-five cents.

For issuing a commission to take testimony, fifty cents.

For all services connected with the posting of estrays, one dollar.

In cases before the Justice of the Peace, when the venue shall be changed, the Justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the transcript and papers, shall receive one dollar; and the Justice before whom the trial shall take place shall receive the same fees as if the action had been commenced before him.

For performing the duties of Coroner, when the Coroner fails to act, the same fees and mileage as are allowed the Coroner in like cases.

For issuing each process, writ, order, or paper required by law to be issued not otherwise herein provided for, twenty-five cents.

For administering oath or affirmation not otherwise herein provided for, ten cents.

For each certificate or affidavit not otherwise herein provided for, twenty-five cents.

For taking and approving bond or undertaking, including the justification of sureties, fifty cents.

19. Jurors' and witness' fees shall be as follows:

#### JURORS' FEES.

For attending as a grand juror or juror in the Superior Court, for each day's attendance, per day, two dollars.

For attending Justice's Court, for each juror sworn to try the cause, per day, in civil cases only, two dollars.

For each mile actually traveled in attending Court as a juror, except in criminal cases in Justice's Court, for which no allowance shall be made, in going only, per mile, fifteen cents.

**WITNESS' FEES.**

For each day's actual attendance, when legally required to attend upon the Superior Court, per day, two dollars in civil cases, and one dollar and fifty cents in criminal cases.

Mileage actually traveled, one way only, per mile, ten cents; provided, however, that in criminal cases, such per diem and mileage shall only be allowed upon a showing to the Court, by the witness, that the same are necessary for the expenses of the witness in attending, and the Court shall determine the necessity for the same, and may disallow any fees to a witness unnecessarily subpoenaed.

For each day's attendance upon Justice Court, in civil cases only, when legally required to attend, per day, one dollar.

For each mile actually traveled, in civil cases only, in Justice's Court, in going only, ten cents.

Witnesses in civil cases may demand the payment of their mileage and fees for one day in advance, and when so demanded shall not be compelled to attend until the same shall have been paid.

**CORONER.**

Coroners may, for their own use, collect the following fees, and no others:

For general services in holding an inquest, ten dollars.

For each witness subpoenaed, twenty-five cents.

For each mile necessarily traveled in going to the place of the inquest, twenty-five cents.

For directing or attending the interment of each body upon which an inquest has been held, two dollars; which fees shall be all that he shall be entitled to charge.

When acting as or in the place of the Sheriff, the same fees as are allowed the Sheriff for like services.

**PUBLIC ADMINISTRATOR.**

The Public Administrator shall charge and collect such fees as are now or may hereafter be allowed by law.

**COUNTY SURVEYOR.**

The County Surveyor shall charge and collect such fees as are now or may hereafter be allowed by law.

SEC. 2. No fees or other compensation shall be paid for certificate of declaration to become a citizen of the United States, and for making a record thereof, or for issuing a certificate of citizenship to become a citizen of the United States, or for making a record thereof; and no fees or other compensation shall be paid for filing the statement and affidavit of a com-

mittee or candidate voted for at any public election held within the State; and this section shall apply to all the counties in this State.

SEC. 3. All Acts or portions of Acts inconsistent herewith are hereby repealed.

SEC. 4. This Act shall take effect immediately.

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## CHAPTER CCVIII.

*An Act providing for the erection and operation of rock-crushing plants at the State Prisons, for the preparation of highway material for the benefit of the people of the State, and providing for the necessary advances and appropriation of money to carry out said work.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Governor of the State, the State Prison Directors, and the Bureau of Highways (or if the latter shall not be established, then and in that case the two first named) shall, when satisfied that fifty thousand cubic yards of prepared road or highway metal, as hereinafter described, will be taken for highway purposes, purchase, establish, and operate at one or both of the State Prisons, a rock or stone crushing plant, to be operated by convict labor and by the application of power under control of the State Prison Directors, and with such free labor as is necessary for superintendence and direction, to crush rock or stone into road metal for highway purposes, of different and necessary degrees of fineness; *provided*, that the authority and direction hereby and herein conferred and given, shall not be exercised or employed until the Governor and the State Prison Directors are satisfied that transportation can be had for such highway metal for highway purposes at just and reasonable rates, and so as to justify the setting up and operation herein provided for of said plant.

SEC. 2. When such plant described in section one is set up and operated there shall be taken into account in ascertaining the cost of producing highway metal therefrom, only the cost of necessary explosives, oil, fuel, tools, and machinery exclusive of the plant itself, repairs, superintendence, and direction, and the preparation and maintenance of beds, boxes, crates, or other unloading devices for carriage and delivery from cars of said highway metal.

SEC. 3. To said cost of production so ascertained, as set out in section two, there shall be added for and to each and every cubic yard of highway metal so produced, ten per cent, and the result or product of such addition shall be the sale price of such metal delivered from the plant free on board of the cars or other vehicles of transportation.

SEC. 4. Said ten per cent shall, as realized, and not less frequently than semi-annually, be paid into the State Treasury, until there shall have been paid in the full sum of twenty-five thousand dollars, and thereafter said percentage shall be reduced to five per cent, and the same, as realized, shall be paid into the fund for the support of the State Prisons.

SEC. 5. The State Prison Directors are hereby authorized to lease railroad cars with equipment suitable for the rapid and economical handling and delivery of highway material prepared as aforesaid, whenever in their judgment the interests of the people of the State will be conserved thereby in the matter of highway construction by the use of such highway metal so produced, as in this Act provided. The cost of such leasing shall in such case be carried into the cost of production described in section two.

SEC. 6. The sum of thirty thousand dollars is hereby advanced by the State, for the purposes of this Act, and said sum is hereby appropriated out of the General Fund of the Treasury, subject to the demand of the State Prison Directors; and the State Controller shall, on presentation of such demand, in writing, draw his warrant upon the Treasurer for the said sum of money in behalf of said State Prison Directors, and the State Treasurer shall, on presentation of such warrant, pay the same. Twenty-five thousand dollars of said sum of money so advanced and appropriated shall be returned to the fund from which drawn, as is specified and directed in this Act.

SEC. 7. The sum of five thousand dollars is hereby set apart out of the money so appropriated in the previous section, to and for the usage of the State Prison Directors, to provide and maintain a permanent revolving fund for the purchase of tools, machinery, and other material and appliances, exclusive of the establishment of the plant described in this Act, to be used in the process of crushing and handling rock or stone at the State Prisons for the purposes contemplated and set out in this Act. All money taken from said revolving fund shall be used exclusively in payment for such supplemental machinery, tools, material, and appliances necessary to the proper quarrying, handling, and preparing of highway material at said State Prisons; and so much of the money received for sale of highway metal as shall be necessary to that end shall be returned to said revolving fund as is needed to keep the same constantly at the said figure of five thousand dollars.

SEC. 8. All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 9. This Act shall take effect and be in force from and after its passage.

## CHAPTER CCXIII.

*An Act to amend the Penal Code by adding a new section, to be known as section ten hundred and eighty-nine of the Penal Code of the State of California, relating to alternate jurors.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Penal Code of the State of California is hereby amended by adding a new section thereto, to be known as section ten hundred and eighty-nine, to read as follows:

1089. Whenever, in the opinion of a Judge of a Superior Court about to try a defendant against whom has been filed any indictment or information for a felony, the trial is likely to be a protracted one, the Court may cause an entry to that effect to be made in the minutes of the Court, and thereupon, immediately after the jury is impaneled and sworn, the Court may direct the calling of one or two additional jurors, in its discretion, to be known as "Alternate Jurors." Such jurors must be drawn from the same source, and in the same manner, and have the same qualifications as the jurors already sworn, and be subject to the same examination and challenges; *provided*, that the prosecution shall be entitled to one, and the defendant to two, peremptory challenges to such alternate jurors. Such alternate jurors shall be seated near, with equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and must attend at all times upon the trial of the cause in company with the other jurors; and for a failure so to do are liable to be punished for contempt. They shall obey the orders of and be bound by the admonition of the Court upon each adjournment of the Court; but if the regular jurors are ordered to be kept in the custody of the Sheriff during the trial of the cause, such alternate jurors shall also be kept in confinement with the other jurors; and except, as hereinafter provided, shall be discharged upon the final submission of the case to the jury. If, before the final submission of the case, a juror die, or become ill, so as to be unable to perform his duty, the Court may order him to be discharged and draw the name of an alternate, who shall then take his place in the jury-box, and be subject to the same rules and regulations as though he had been selected as one of the original jurors.

Sec. 2. This Act shall take effect and be in force from and after its passage.

## CHAPTER CCXV.

*An Act to amend sections sixteen hundred and seventy and sixteen hundred and seventy-one of the Political Code, relating to high schools.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section sixteen hundred and seventy of the Political Code is hereby amended to read as follows:

1670. *First*—Any city, incorporated town, or school district having a population of one thousand inhabitants or more, may, by a majority vote of the qualified electors voting at the election held for the purpose of determining the establishment and maintenance of such high school, establish and maintain a high school at the expense of such city, incorporated town, or school district.

*Second*—Whenever a majority of the heads of families, as shown by the last preceding school census, in any city, incorporated town, or school district, having one thousand or more inhabitants, shall unite in a petition to the Board of Education or Board of School Trustees of said city, incorporated town, or school district, for the establishing and maintaining of a high school therein, said Board of Education or Board of School Trustees shall petition the County Superintendent of Schools to call an election in said city, incorporated town, or school district, for the determination of the question.

*Third*—Within twenty days after receiving said petition from said Board of Education or Board of School Trustees, the County Superintendent of Schools shall call an election therein for the determination of the question, and shall appoint three qualified electors thereof to conduct said election. Said election shall be called by posting notice thereof in five of the most public places in said city, incorporated town, or school district, and by publication in a daily or weekly paper therein, if there be one, for not less than fifteen days. Said election shall be conducted in the manner prescribed for conducting school elections. The ballots at such elections shall contain the words "For High School," and the voter shall write or print after said words on his ballot the word "Yes," or the word "No." It shall be the duty of said election officers to report the result of said election to the County Superintendent of Schools within ten days subsequent to the holding thereof.

*Fourth*—When a majority in each district, as shown by the last preceding school census, of the heads of families residing in two or more contiguous school districts in the same county, shall unite in a petition to the County Superintendent of Schools for the establishing and maintaining of a union high school district, he shall, within twenty days after receiving said petition, call an election for the determination of the question, and shall appoint three

qualified electors in each of the districts petitioning to conduct the election therein. Said election shall be held separately and simultaneously at the public school house in each of the districts petitioning, and shall be called by posting notices thereof in three of the most public places in each district, one of which places shall be the public school house in each district, at least ten days before said election. Said election shall be conducted by the officers appointed for that purpose, in the manner provided by law for conducting school elections. The ballots at such election in each district shall contain the words "For the Union High School," and the voter shall write or print after said words on his ballot the word "Yes," or the word "No." It shall be the duty of the said election officers in each district to canvass the vote at said election, and report the result to the County Superintendent of Schools within five days subsequent to the holding of said election.

*Fifth*—If a majority of the votes cast in the election provided for in subdivision three of this section in said city, incorporated town, or school district shall be in favor of establishing and maintaining a high school therein, it shall be the duty of the County Superintendent to call a meeting of the Board of Education or Board of School Trustees of said city, incorporated town, or school district, within fifteen days after receiving the returns of the election held therein, by giving at least ten days' notice, in writing, to every member of said Board of Education or Board of School Trustees. The Board of Education or Board of School Trustees shall, at said meeting, determine the location and the name of the high school.

*Sixth*—If a majority of the votes cast in the districts petitioning for a union high school shall in the aggregate be in favor of establishing and maintaining a union high school therein, the County Superintendent shall, within fifteen days after receiving the returns of the election held therein, direct the Board of School Trustees in each of said districts to call a meeting of the qualified electors of their respective districts, in the manner provided in subdivision twenty of section sixteen hundred and seventeen of the Political Code. At said meeting the qualified electors shall in each district select three representatives. The representatives so chosen shall meet in conjunction with the County Superintendent of Schools, at a time and place to be named by the Superintendent, for the purpose of determining the location and name of the union high school. At such meeting the Superintendent shall be the Chairman, and shall be entitled to vote and participate in all its proceedings. No change of location of any high school, when once established, shall be made except upon a petition to the County Superintendent of Schools, signed by two thirds of the heads of families of the high school district, and then only in accordance with all of the provisions for the original location of the school, as contained in subdivisions four and five of this section.

*Seventh*—In any city, incorporated town, or school district which shall have established a high school, the Board of Education or Board of School Trustees shall constitute the High

School Board, and shall have the management and control of said high school.

*Eighth*—In union high school districts composed of more than two school districts, the High School Board shall be composed of one member elected from each district composing the high school district at the time and in the manner prescribed for the election of School Trustees, except as otherwise provided in this Act. The Superintendent (or Superintendents by concurrent action in joint high school districts) shall, in union high school districts composed of three or more school districts, divide the districts composing the union high school district into three classes, as nearly equal in number of school districts as possible, to be designated by him as Class A, B, and C, respectively. At the first annual school election following the passage of this Act, the districts in Class A, as above divided and designated, shall each elect a High School Trustee for one year; the districts in Class B shall each elect a High School Trustee for two years; the districts in Class C shall each elect a High School Trustee for three years. At each annual election thereafter, as terms of office expire, the High School Trustees shall be elected for three years, and in case of expiration of term of appointment, for the unexpired term. Vacancies in the High School Board shall be filled by appointment by the County Superintendent of Schools (and in case of joint union high school districts, by concurrent action of the County Superintendents of Schools), the appointee or appointees to hold until the first day of July succeeding the appointment. The Trustees serving on Union High School Boards, composed of more than two school districts at the time of the passage of this Act, shall hold until their successors are elected and shall qualify under the provisions of this Act; in the formation of new union high school districts the representatives selected according to the provisions of subdivision sixth of this section shall constitute the Union High School Board until their successors are elected, or appointed, and qualified, as provided in this Act. In union high school districts consisting of but two school districts the Union High School Board shall be composed of the Boards of School Trustees of both said districts.

*Ninth*—The Union High School Board shall meet within ten days subsequent to the locating and naming of the union high school by the parties selected for that purpose, and shall organize by electing a President and a Clerk from their own number, to serve until the second Saturday of July next succeeding their election; and thereafter the Board shall meet and organize in the same manner on the second Saturday of July of each and every year.

*Tenth*—The High School Boards shall hold regular monthly meetings at the high school building, at such time as may be provided in the rules and regulations adopted by them for their own government. Special meetings may be held at the call of the President of the respective Boards. Upon the request, in writing, signed by a majority of any Board, the President of said Board shall call a meeting thereof. Of all special meet-

ings of any Board the members thereof shall have at least two days' notice, issued and served by the Clerk thereof. At special meetings no business shall be transacted other than as specified in the call therefor; *provided*, that in union high school districts composed of more than two districts the regular meetings as above provided shall be quarterly; *and provided further*, that the Union High School Board in said union high school districts may appoint an Executive Committee, consisting of the President and Secretary and one other member of the Board, no two of whom shall be from the same school district, to attend to the routine business of the Board, their action to be reported to the Board for ratification at its first regular meeting ensuing.

*Eleventh*—The powers and duties of the High School Boards shall be such as are now or as may hereafter be assigned by law to Boards of Education, or Boards of School Trustees, including the provisions of sections one thousand eight hundred and eighty to one thousand eight hundred and eighty-eight, inclusive, of the Political Code, relating to the voting and issuance of bonds, except as otherwise provided in this section.

*Twelfth*—The course of study for the respective high schools shall be prepared by the High School Board, and, except in cities and incorporated towns, shall be subject to the approval of the County Board of Education. Said course of study shall embrace a period of not less than three years; and it shall be such as will prepare graduates therein for admission into the State University. The High School Board may prescribe an additional course or additional courses of study, subject to the approval, as hereinbefore provided. The text-books to be used shall be adopted by the High School Board, subject to the same restriction as is provided for the adoption of the course of study. The State series shall be used in grades and classes for which they may be adapted.

*Thirteenth*—Graduates of the grammar schools shall be admitted to the high schools without examination. Other applicants of the high school district may be admitted in accordance with such rules as may be prescribed by the High School Board; *provided*, that no applicant shall be admitted to the high school who has not practically completed the work of the grammar grades of the county in which the high school is located. Proficiency is to be determined by the Principal, subject to approval by the County Board of Education. The High School Board may admit pupils not residing in any high school district, upon the payment of such tuition fees as they may deem proper, and all moneys collected from this source shall be paid into the fund provided for the support of the high school.

*Fourteenth*—In any city, incorporated town, school district, or union high school district which shall have voted to establish and maintain a high school, it shall be the duty of the High School Board therein, to furnish to the authorities whose duty it is to levy taxes, on or before the first day of September, an estimate of the cost of purchasing a suitable lot, of procuring

plans and specifications, and erecting a suitable building, of furnishing the same, and of fencing and ornamenting the grounds for the accommodation of the school, and of conducting the school for the school year. It shall be the duty of said Board, each and every year thereafter, to present to said authorities, on or before the first day of September, an estimate of the amount of money required for conducting the school for the school year.

*Fifteenth*—When such estimate shall have been made and submitted it shall be the duty of the authorities whose duty it is to levy taxes in said city, incorporated town, school district, or union high school district, to levy a special tax upon all of the taxable property of said city, incorporated town, school district, or union high school district, sufficient in amount to maintain the high school. Said tax shall be computed, entered upon the tax roll, and collected, in the same manner as other taxes are computed, entered, and collected.

*Sixteenth*—Should the High School Board of any city, incorporated town, school district, or union high school district, fail to make the estimate provided for in subdivision fourteen of this section, it shall be the duty of the Superintendent of Schools, upon the petition of five qualified electors thereof, to make such estimate.

*Seventeenth*—Should the authorities whose duty it is to levy the tax, as provided in subdivision fifteen of this section, fail to make the levy provided for, it shall be the duty of the County Auditor to make such levy, and add it to the tax roll of said city, incorporated town, school district, or union high school district.

*Eighteenth*—All moneys collected from the levy of the tax provided for by this section shall be paid, in cities and incorporated towns, into the treasury thereof, to the credit of the High School Fund; and said moneys shall be paid out by the Treasurers of said cities or towns upon the warrants of the High School Board, signed by the President and Clerk thereof.

*Nineteenth*—All moneys collected from said levy in school districts, or union high school districts, shall be paid into the County Treasury to the credit of the District High School Fund, or the Union High School Fund, respectively, and shall be paid out on the order of the High School Board, signed by the President and Clerk thereof, as other school moneys are paid out.

*Twentieth*—Nothing in this section shall be construed as preventing all of the school districts in any county from uniting to form one or more county high schools; *provided*, that when any city, incorporated town, school district, or union high school district shall vote to maintain a high school, such territory shall be exempt from taxation to support a county high school; *and provided further*, that when any city, incorporated town, school district, or union high school district shall establish a high school prior to the submission of the proposition to establish a county high school, the electors of such city, incorporated town, school district, or union high school district shall be excluded from voting upon said proposition; *pro-*

*vided further*, that in counties where one or more city high schools, district high schools, or union district high schools are maintained, the Board of Supervisors shall, upon the petition of two thirds of the heads of families in the city high school district, district high school district, and in each school district composing the union high school district or districts, if there be more than one in the county, submit to all the qualified electors of the county the question of establishing and maintaining a county high school, and shall take such further steps as provided in section sixteen hundred and seventy-one of this Act, relating to high schools. If the majority of all the votes cast on the proposition to establish a county high school are in the affirmative, the Board of Supervisors shall, upon the establishment of the same, declare the high school or high schools existing in the county at the time of the election for a county high school, to be lapsed, and the property of such lapsed high school or schools shall be held or sold by the Board of Supervisors for the benefit of the county high school.

*Twenty-first*—When the boundaries of school districts shall for any cause be changed, such change shall not affect the high school district.

*Twenty-second*—Any school district adjacent to a high school district may be admitted to said high school district by action of the Board of Supervisors of the county, upon such terms as may be agreed upon between the Trustees of the school district seeking admission, and the High School Board, whenever a majority of the heads of families, as shown by the last preceding school census, shall present to said Board of Supervisors a petition for such annexation, accompanied by a petition signed by a majority of the members composing the High School Board of the district to which admission is desired.

*Twenty-third*—When the average daily attendance of pupils in any high school during the whole of any school year, after the first school year, shall be ten, or less than ten, the Superintendent of Schools shall suspend the school in said district, and shall report the fact to the Board of Supervisors. Upon receiving such report from the Superintendent, the Board of Supervisors shall declare the high school lapsed, and shall cause the property thereof to be sold. All moneys received from the sale of the property of the high school district, and all moneys in the treasury to the credit of said high school, shall be distributed by the County Superintendent to the districts composing the high school district, in proportion to the assessed valuation of property in said districts.

*Twenty-fourth*—When, in consequence of distance or of convenience in traveling, it is more convenient for pupils residing in any high school district to attend the high school in another high school district, the High School Board of the latter district may admit such pupils to the high school in their district, upon such terms as the two Boards may arrange.

*Twenty-fifth*—(1) When a majority of the heads of families residing in two or more adjacent districts, not in the same

county, shall unite in a petition to the County Superintendents of their respective counties for the establishing and maintaining of a joint union high school district, it shall be the duty of said Superintendent, within twenty days after receiving said petition, to call an election in the district or districts in his county petitioning, for the purpose of determining the question, and appoint three qualified electors in each district petitioning, to conduct the election therein. Said election shall be called and conducted in all respects as specified in subdivision fourth of this section, and the result thereof shall be reported by the election officers in each district to the Superintendents of the counties in which the districts are situated, within five days subsequent to the holding of said election.

(2) If a majority of the votes cast in the districts shall, in the aggregate, be in favor of establishing a joint union high school, the County Superintendent in each county shall, within fifteen days after receiving the returns of the election, direct the Board of Trustees in the district, or districts, in his respective county, to call a meeting of the qualified electors, as provided in subdivision sixth of this section. At said meeting the qualified electors in each district shall select representatives, as provided in said subdivision. The representatives so chosen shall meet at a time and place, to be agreed upon among themselves, for the purpose of determining the location and name of the school.

(3) The Joint Union High School Board shall be composed as provided in subdivision eighth of this section; and their powers and duties shall be such as are specified in this section for Union High School Boards; *provided*, that the estimate provided for in subdivision fourteenth of this section shall be furnished to the authorities in each of the counties in which the districts uniting are situated; *and provided further*, that the portion of the amount to be raised in each district shall be in proportion to the taxable property therein, as shown by the last preceding assessment roll thereof.

(4) All the provisions relative to the levy and collection of the tax necessary to maintain the high school shall apply to the levy and collection of the tax for joint union high schools; *provided*, that the amount collected in each district shall be paid into the treasury of the county in which said district is located, to the credit of a fund to be known as the Joint Union High School Fund, and shall be paid out as provided in subdivision nineteenth of this section.

SEC. 2. Section sixteen hundred and seventy-one of the Political Code is hereby amended to read as follows:

1671. *First*—There may be established in any county in this State, one or more county high schools; *provided*, that at any general or special election held in said county after the passage of this Act, a majority of all the votes cast at such election, upon the proposition to establish a high school, shall be in favor of establishing and maintaining such county high school or schools at the expense of said county.

*Second*—The Board of Supervisors at any general election to be held in any county after the passage of this Act, upon the presentation of a petition signed by fifty or more qualified electors, taxpayers of said county, must submit the question of establishing and maintaining a county high school to the qualified electors thereof. The Board of Supervisors, if they deem it expedient, may order a special election for such purpose. Said election shall be conducted in the manner prescribed by law for conducting elections. The ballots at such election shall contain the words "For County High School," and the voter shall write or print thereafter on the ballot the word "Yes," or the word "No."

*Third*—If the majority of all the votes cast on the proposition to establish a county high school are in the affirmative, it shall be the duty of the Board of Supervisors, within thirty days after canvassing said vote, to locate the school in some suitable and convenient place in said county. The Board of Supervisors shall also estimate the cost of purchasing a suitable lot, erecting a building, and furnishing the same, for the accommodation of such school, together with the cost of conducting such school for the next twelve months; *provided*, that the High School Board may rent suitable rooms for the accommodation of the school. If rooms can be obtained in public school buildings in the place in which said school shall be located, such rooms shall be given the preference.

*Fourth*—When such estimate shall have been made, the Board of Supervisors shall thereupon proceed to levy a special tax upon all of the assessable property of the county, except as provided in subdivision twentieth of section one thousand six hundred and seventy of the Political Code, sufficient to raise the amount estimated as necessary for the purchasing of a lot, procuring plans and specifications, erecting a building, furnishing the same, fencing and ornamenting the grounds, and the cost of running said school for the following twelve (12) months. Said tax shall be computed, entered on the tax roll, and collected in the same manner as other taxes are computed, entered, and collected, and the amount so collected shall be deposited in the County Treasury, and be known and designated as the County High School Fund, and shall be drawn from the treasury as other moneys so appropriated are drawn.

*Fifth*—When the Board of Supervisors shall have properly provided and completed the building, together with the necessary fencing of the lot so purchased, they shall cause the same to be deeded to the County Board of Education, who shall hold the same in trust for the county.

*Sixth*—It shall be the duty of the County Board of Education to furnish to the Board of Supervisors, annually, an estimate of the amount of money needed to pay all of the necessary expenses of running said school; to adopt the necessary text-books (the State series shall be used in grades and classes for which they are adapted); to adopt and enforce a course of study for said schools; to employ suitable teachers, janitors, and other employés, and discharge such employés when deemed advisable.

by them, and to do any and all other things necessary to the proper conduct of the school. The course of study shall embrace a period not less than three years, and it shall be such as will prepare graduates therein for admission to the State University.

*Seventh*—It shall be the duty of the Board of Supervisors to include in their annual tax levy an amount sufficient to maintain the county high school; and such amount, when collected and paid into the County Treasury, shall be known as the “County High School Fund,” and may be drawn therefrom in the following manner, for the purpose of defraying the expenses of conducting said county high school: The County Board of Education shall draw their order on the County Superintendent of Schools, in the manner and form provided by law for school District Trustees drawing orders on their district school funds, and the County Superintendent shall draw his requisition on the Auditor, who shall draw his warrant on the County Treasurer in favor of the person or persons to whom the amount called for in such requisition is due. All orders, requisitions, and warrants drawn on the “County High School Fund,” in all other respects, except as specified in this Act, shall be subject to the law governing school districts.

*Eighth*—In case the qualified electors of any county deem it expedient to establish and maintain more than one county high school, then such additional school or schools may be established and maintained in the manner prescribed in this Act for establishing and maintaining a county high school.

*Ninth*—All county high schools shall be open for the admission of graduates holding diplomas from the grammar schools of the county, and to all pupils of the county who can pass the examination for admission. The examination for admission shall be conducted by the County Board of Education and the Principal of the county high school.

*Tenth*—Nothing in this Act shall be construed so as to prevent the Principal of the high school from acting as Principal of the grammar school of the school district in which the high school is located, if so desired by the trustees of said school district.

*Eleventh*—All proceedings for the establishment of county and union high schools had prior to the passage and approval of this Act, are hereby validated and declared legal; and said high schools shall continue under the provisions of the law under which they were established, until the first day of July, one thousand eight hundred and ninety-five; thereafter they shall be conducted in accordance with the provisions of this Act.

## CHAPTER CCXVI.

*An Act entitled an Act to amend sections eleven hundred and forty-two, eleven hundred and ninety-two, eleven hundred and ninety-nine, twelve hundred and three, twelve hundred and four, twelve hundred and seven, twelve hundred and eight, and twelve hundred and fifty-eight of the Political Code, relating to elections.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section eleven hundred and forty-two of the Political Code is hereby amended so as to read as follows:

1142. When an election is ordered, the Board of Supervisors, or other Board having charge and control of elections in each of the counties, and cities and counties, of the State, shall appoint for each precinct, from the electors thereof whose names appear upon the last assessment roll of said county, or city and county, two Inspectors, two Judges, and two Clerks, the Inspectors, Judges, and Clerks to be selected, respectively, from the several respective political parties which, respectively, cast five per cent of the entire vote of the State at the last preceding general election for Electors of President and Vice-President nominated by such political party, so that each such political party shall have at least one representative upon such Board; and the remaining officers upon such Board shall be apportioned as nearly as may be equally between the two political parties which, respectively, cast the highest and next highest number of votes for said Electors at said election. The Inspectors and Judges so appointed shall constitute a Board of Election for such precinct. Such Board of Election shall canvass the votes for such precinct, and must be present at the closing of the polls. The members of said Board shall relieve each other in the duties of canvassing the ballots, which may be conducted by at least half of the whole number; but the final certificate shall be signed by a majority of the whole. No person shall be eligible to act as an officer of election at any precinct who has been employed in any official capacity in the county, or city and county, in the State, within ninety days next preceding any election. No person shall be eligible to act as a member of any Election Board, or as a Clerk upon such Board, who cannot read and write the English language. Any person acting as a member of any Election Board, or as a Clerk upon such Board, who cannot read and write the English language, and any person who refuses to act upon such Board, or as a Clerk thereof, after proper notification of his appointment, who is otherwise eligible, unless good and sufficient cause for such refusal is shown, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of five hundred dollars, and upon failure to pay said fine shall be imprisoned in

the county jail of such county, or city and county, for the period of one day for each one dollar of said fine.

Sec. 2. Section eleven hundred and ninety-two of the Political Code is hereby amended so as to read as follows:

1192. Certificates of nomination required to be filed with the Secretary of State shall be filed not more than sixty days and not less than forty days before the day fixed by law for the election of the persons in nomination, when the nomination is made by a convention, and not more than sixty days and not less than thirty days before the day of election, when the nomination is made by electors, as provided in section one thousand one hundred and eighty-eight of this Code. Certificates of nomination required to be filed with the County Clerks, or with the Clerk or Secretary of the legislative body of any city or town, shall be filed not more than fifty nor less than thirty days before the day of election, when the nomination is made by a convention, and not more than fifty days nor less than twenty days before the day of election, when the nomination is made by electors. Should a vacancy in the list of nominees of a convention occur, such vacancy may be filled by the convention, or if it has delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancy, proceed to fill the same; *provided*, that no nomination shall be made or certified at a period before the day of election less than the minimum number of days provided for filing certificates of nomination made under this Code. The Chairman and Secretary of the convention or of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. When a certificate to fill any vacancy shall be filed with the Secretary of State, he shall, in certifying the nomination to the various County Clerks, insert the name of the person who has been thus nominated to fill a vacancy in the place of that of the original nominee. Any person whose name has been presented as a candidate, may, at least five days before the making of the publication of the nominations prescribed in this section, cause his name to be withdrawn from nomination, by filing with the Secretary of State and County Clerk his request therefor, in writing, signed by him and acknowledged before the County Clerk of the county in which he resides; and no name so withdrawn shall be printed on the ballot. Whenever any certificate of nomination is presented for filing to any officer authorized to file the same, such officer shall forthwith, upon receipt of the same and before filing, examine the same, and if there is any defect, omission, or reason why the same should not be filed, such officer shall then and there forthwith designate, in writing, the defect, omission, or reason why such certificate cannot be filed, and return the said certificate to the

person presenting the same, with such written designation of defect, omission, or reason for not filing the same; and after the filing of any certificate of nomination, no officer required by law to transmit any nomination, or to make up or print any ballot, shall fail or omit to transmit such nomination, or omit to print the name of any nominee or candidate named in any certificate of nomination which has been filed; and unless a certificate of nomination is returned as herein required, the officer to whom the same is properly presented shall file the same as soon as he shall receive and examine the same as herein required, and must file it as of the day it is presented.

SEC. 3. Section eleven hundred and ninety-nine of the Political Code is hereby amended so as to read as follows:

1199. The County Clerk of each county shall provide for each election precinct in the county, not less than one hundred general tickets for every fifty or fraction of fifty electors registered in the election precinct; and in case of a consolidated city and county, an equal number of municipal tickets, when any city and county officers are to be elected; and the Clerk or Secretary of the legislative body of any incorporated city or town shall furnish a like number of municipal tickets when any city or town officer is to be elected. And upon the day of an election, immediately upon the arrival of the hour when the polls are required by law to be closed, the County Clerk in each county shall openly, in his main office, in the presence of as many persons as may there assemble to observe his act, proceed to destroy every unused ballot which shall have remained in his possession, custody, or control, and forthwith make and file his affidavit, in writing, as to the number of ballots so destroyed.

SEC. 4. Section twelve hundred and three of the Political Code is hereby amended so as to read as follows:

1203. All officers upon whom is imposed by law of the State the duty of designating polling places, shall cause such polling places to be suitably provided with a ballot-box, to be marked on the outside "General Tickets," and when any city, city and county, or town officers are to be elected, a second ballot-box, to be marked on the outside "Municipal Tickets"; and shall also provide a sufficient number of places, booths, or compartments, at or in which voters may conveniently mark their ballots, so that in the marking thereof they may be screened from the observation of others; and a guard-rail shall be so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot-boxes, and of such booths or compartments. The arrangements shall be such that neither the ballot-boxes nor the box booths or compartments shall be hidden from the view of those just outside the said guard-rail. The number of such voting booths or compartments shall not be less than one for every forty electors qualified to vote in the precinct. No person other than electors engaged in receiving, preparing, or depositing their ballots shall be permitted to be within said rail before the closing of the polls, except by authority of the Board of Election, and then only for

the purpose of keeping order and enforcing the law. Each of said voting booths or compartments shall be kept provided with proper supplies and conveniences for marking the ballots. And the election officers shall especially see that the stamps and ink-pads required are at all times in such booths and in condition for proper use; and all officers upon whom is imposed by the law the duty of designating polling places, shall supply each polling place with several stamps and several ink-pads for each booth, and such stamps shall be so made that a cross (X) may be made with either end of such stamp, and the same must be so constructed that the portion with which such cross (X) is to be made shall not be fastened on by any glue or like substance which may loosen when wet, but the said stamp shall be one solid piece.

SEC. 5. Section twelve hundred and four of the Political Code is hereby amended so as to read as follows:

**1204.** Any person desiring to vote shall give his name and address to one of the Ballot Clerks, who shall then, in an audible tone of voice, announce the same, and if the other Ballot Clerk finds the name on the register, he shall, in like manner, repeat the name and address, whereupon a challenge may be interposed, as provided in section one thousand two hundred and thirty of this Code. If the challenge be overruled, the Ballot Clerk shall give him a ticket, and the Clerk shall write on the register, opposite the name of the voter, the number of the general ticket given him, and also the number of the municipal ticket given him, when any city, city and county, or town officer is to be elected; and the voter shall be allowed to enter the place inclosed by the guard-rail, as above provided. The Ballot Clerk shall give him but one general ticket, and where any city, city and county, or town officers are to be elected, also one municipal ticket, and only one ballot of each kind; and in order to prevent voters from marking their ballots with a pencil, or otherwise contrary to law, it shall be the duty of a Ballot Clerk, whenever he shall deliver a ballot to any voter, to then orally, distinctly state to him, so that it may be heard by the bystanders, that he must mark the ballot with the stamp provided by law, or it will not be counted.

SEC. 6. Section twelve hundred and seven of the Political Code is hereby amended so as to read as follows:

**1207.** Any voter who shall spoil a ballot shall return such spoiled ballot to the Ballot Clerk and receive another one in its place, one at a time, not to exceed three in all. All the ballots thus returned shall be immediately canceled, and, with those not distributed to the voters, shall be returned with the registered list and ballots, as now provided in sections one thousand two hundred and sixty-three and one thousand two hundred and sixty-four of this Code. Every elector who does not vote the ballot delivered to him, shall, before leaving the polling place, return such ballot to the Ballot Clerks having charge of the ballots, who shall immediately cancel the same and return them in the same manner as spoiled ballots. The

Ballot Clerks shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled ballots returned, the number of ballots given to them, and it shall be the duty of the officers receiving such returned ballots to compel such an accounting; and immediately upon the closing of the polls, and before any ballot shall be taken from the ballot-boxes, or either thereof, the Ballot Clerks must, in the presence of all persons in the room who may desire to observe the same, proceed to deface every unused or spoiled ballot, by drawing across the face thereof, in writing ink, with a pen, two lines which shall cross each other, and said Ballot Clerks shall thereupon immediately, and before any ballots be taken from the ballot-box, or either thereof, place all said ballots thus defaced within an envelope and seal said envelope, and thereupon a majority of the election officers shall immediately write their names across the sealed portion of said envelope.

SEC. 7. Section twelve hundred and eight of the Political Code is hereby amended so as to read as follows:

1208. When it appears from the register that any elector has declared under oath, when he registered, that he cannot read, or that by reason of physical disability he is unable to mark his ballot, he shall, upon request, receive the assistance of two of the officers of election, of different political parties, in the marking thereof, to be chosen as follows: One by the Inspector then receiving the ballots, and the other by the Judge of the opposite political party which at the last election cast the highest number of votes throughout the State, and in the event there are more Judges than one of said party, then by the one of said Judges who shall be named by said Inspector. Neither of the persons appointed shall be of the same political party with the person appointing, nor shall either of said persons so making said appointments appoint the other for said purposes. Such officers shall thereafter give no information regarding the marking of said ballot. The officers making such appointments shall make the same in writing, and sign the same, and upon the same paper the persons so appointed shall subscribe and take the following oath before assisting such elector:

State of California, county of —, Assembly district number —, — precinct, ss.

— and —, being duly sworn, each for himself, says that he is one of the officers of election appointed to assist — (here insert the name of the elector) in marking his ballot, and that he will not give any information, now or hereafter, regarding the same.

Subscribed and sworn to before me, this — day of —,  
A. D. 18—.

Said affidavits may be sworn to before any officer of election competent to administer an oath, and the same, with the

endorsements thereon, shall be returned to the County Clerk, as provided in section one thousand two hundred and sixty-one of this Code.

Lists of the voters who have been assisted in marking their ballots shall be kept by the clerks keeping the poll lists, and shall be returned and preserved, as the poll lists are returned and preserved. As amended March twenty-third, eighteen hundred and ninety-three.

SEC. 8. Section twelve hundred and fifty-eight of the Political Code is hereby amended so as to read as follows:

1258. Each clerk must write down each office to be filled, and the name of each person marked in each ballot as voted for to fill such office, and keep the number of votes by tallies, as they are read aloud. Such tallies must be made with pen and ink, and immediately upon the completion of the tallies the clerks who respectively complete the same must draw two heavy lines in ink from the last tally mark to the end of the line in which such tallies terminate, and also write the initials of the person making the last tally in such line.

SEC. 9. This Act shall take effect immediately.

CHAPTER CCXVII.

*An Act to repeal an Act of the Legislature of the State of California entitled "An Act in relation to the assessment and collection of taxes upon personal property in the City and County of San Francisco," approved March 18, 1874, and requiring all counties and cities and counties of this State to conform to the requirements of the provisions of the Political Code in relation to the assessment, equalization, levy, and collection of taxes for revenue purposes.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. An Act entitled "An Act in relation to the assessment and collection of taxes upon personal property in the City and County of San Francisco," approved March eighteenth, eighteen hundred and seventy-four, is hereby repealed.

SEC. 2. All counties and cities and counties of this State are hereby required to conform to the provisions of the Political Code in relation to the assessment, equalization, levy, and collection of taxes on real and personal property for revenue purposes, and all laws now in force in relation to revenue are hereby made applicable to all such counties and cities and counties.

SEC. 3. All Acts and parts of Acts in conflict with this Act are hereby repealed.

SEC. 4. This Act shall take effect immediately.

## CHAPTER CCXVIII.

*An Act to amend "An Act to establish a Political Code," by adding and amending sections relating to the revenue and taxes of this State.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section three thousand six hundred and seven is hereby amended so as to read as follows:

3607. All property in this State, not exempt under the laws of the United States, excepting fruit and nut-bearing trees under the age of four years from the time of planting in orchard form, and grapevines under the age of three years from the time of planting in vineyard form, growing crops, property used exclusively for public schools, free public libraries, and free museums, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, is subject to taxation, as in this Code provided; but nothing in this Code shall be construed to require or permit double taxation.

SEC. 2. Section three thousand six hundred and seventeen is hereby amended so as to read as follows:

3617. Whenever the terms mentioned in this section are employed in this Act, they are employed in the sense hereafter affixed to them:

*First*—The term "property" includes moneys, credits, bonds (except of railroad or quasi-public corporations), stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership.

*Second*—The term "real estate" includes:

1. The possession of, claim to, ownership of, or right to, the possession of land.

2. All mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations, growing or being on the lands of the United States, and all rights and privileges appertaining thereto.

3. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, when land is pledged for the payment and discharge thereof, shall for the purpose of assessment and taxation, be deemed and treated as an interest in the land so pledged.

4. Improvements.

*Third*—The term "improvements" includes:

1. All buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land, except telephone and telegraph lines.

2. All fruit, nut-bearing, or ornamental trees and vines, not of natural growth, excepting fruit and nut-bearing trees under four years of age, and grapevines under three years of age.

*Fourth*—The term "personal property" includes everything which is the subject of ownership, not included within the meaning of the term "real estate" or "improvements."

*Fifth*—The terms "value" and "full cash value" mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor.

*Sixth*—The term "credits" means those solvent debts, not secured by mortgage or trust deed, owing to the person, firm, corporation, or association assessed. The term "debt" means those unsecured liabilities owing by the person, firm, corporation, or association, assessed to *bona fide* residents of this State, or firms, associations, or corporations doing business therein; but credits, claims, debts, and demands due, owing, or accruing for or on account of money deposited with savings and loan corporations, shall, for the purpose of taxation, be deemed and treated as an interest in the property of such corporation, and shall not be assessed to the creditor or owner thereof.

SEC. 3. Section three thousand six hundred and twenty-eight is hereby amended so as to read as follows:

**3628.** The franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in this State shall be assessed by the State Board of Equalization, as hereinafter provided for. Other franchises, if granted by the authorities of a county, city, or city and county, must be assessed in the county, city, or city and county within which they were granted; if granted by any other authority, they must be assessed in the county in which the corporations, firms, or persons owning or holding them have their principal place of business. All other taxable property shall be assessed in the county, city, or city and county, town, township, or district in which it is situated. Land shall be assessed in parcels or subdivisions, not exceeding six hundred and forty acres each; and tracts of land containing more than six hundred and forty acres, which have been sectionized by the United States Government, shall be assessed by sections or fractions of sections. Lands sold by the State for which no patent has been issued, shall be assessed the same as other lands, but the owner shall be entitled to a deduction from such assessed valuation in the amount due the State as principal upon the purchase price. The Assessor must, between the first Mondays in March and July of each year, ascertain the names of all taxable inhabitants, and all the property in his county subject to taxation, except such as is required to be assessed by the State Board of Equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was, at twelve o'clock meridian, of the first Monday in March next preceding; but no mistake in the name of the owner or supposed owner of real property shall render the assessment thereof invalid. In assessing solvent credits not secured by mortgage or trust deed, a reduction therefrom shall be made of debts due to *bona fide* residents of this State.

SEC. 4. Section three thousand six hundred and thirty is hereby amended so as to read as follows:

**3630.** The Board of Supervisors must furnish the Assessor with blank forms, as prescribed by the State Board of Equalization, of the statements provided for in the preceding sections,

affixing thereto an affidavit, which must be substantially as follows:

"I, — — —, do swear that I am a resident of the county of (naming it); that the above list contains a full and correct statement of all property subject to taxation which I, or any firm of which I am a member, or any corporation, association, or company of which I am President, Cashier, Secretary, or Managing Agent, owned, claimed, possessed, or controlled, at twelve o'clock M., on the first Monday in March last, and which is not already assessed this year; and that I have not, in any manner whatsoever, transferred or disposed of any property, or placed any property out of said county or my possession for the purpose of avoiding any assessment upon the same, or of making this statement; and that the debts therein stated as owing by me are owing to *bona fide* residents of this State, or to firms or corporations doing business in this State."

The affidavit to the statement on behalf of a firm or corporation must state the principal place of business of the firm or corporation, and in other respects must conform substantially to the preceding form.

SEC. 5. A new section is hereby added to the Political Code of the State of California, to be known and designated as section three thousand six hundred and forty:

3640. The Assessor or his deputies must, before the first Monday in June of each year, in each of the counties and cities and counties, visit each house and place of business in their districts, and enroll in a field-enrollment book, in such form as may be required by the State Board of Equalization, all male persons residing in said county over eighteen years of age and under sixty years of age on the first Monday in March of that year. On such field-enrollment book shall be stated whether the person enrolled is liable to a State poll tax, a road poll tax, or military duty; give the number of the poll tax receipt, and the amount paid, if poll taxes are collected; where his residence is, post office address, giving street and number, if any; occupation, by whom employed; whether the owner of real estate; the State or country of nativity; whether naturalized or not, and any reason that may be given why poll tax was not paid. From such field-enrollment books the military roll, as required by section one thousand eight hundred and ninety-seven, and the roll of poll-tax payers, required by section three thousand eight hundred and fifty-seven, shall be made. Personal property unsecured by real estate must be assessed and taxes collected at the time of enrollment of persons for poll taxes; receipt must be issued for personal property tax from a stub-book, having the stubs numbered the same as the receipt; such stub-books shall have a line for the name of the person assessed, the amount of the assessment, the rate collected, and lines for the items assessed for collection, the total amount, the date of collection, and the name of the deputy making the collection. Such blank personal-tax receipt books shall be furnished for such purpose by the Auditor, and all unused receipts must be turned in by the Assessor with his settlement for personal property taxes on

the first Monday in August of each year. The Assessor or his deputies shall also note on the assessment statement, against each tract of land or lot assessed, the condition of surface of each tract, using the words level, rolling, broken, hilly, or rocky; also, the quality of soil, using the words fruit, grain, pasture, timber, or rocks; also, whether it is wet, dry, semi-moist, or has water rights; also, the kind and value of improvements located on each tract or lot.

SEC. 6. Section three thousand six hundred and fifty is hereby amended so as to read as follows:

3650. The Assessor must prepare an assessment book, with appropriate headings as directed by the State Board of Equalization, in which must be listed all property within the county, under the appropriate head.

1. The name of the person to whom the property is assessed.
2. Land, by township, range, section, or fractional section; and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, not exceeding in each and every tract six hundred and forty acres, locality, and the improvements thereon. When any tract of land is situated in two or more school, road, or other revenue districts of the county, the part in each township or district must be separately assessed. The improvements to be assessed against the particular section, tract, or lot of land upon which they are located.
3. City and town lots, naming the city or town, and the number of the lot and block, according to the system of numbering in such city or town, and the improvements thereon.
4. All personal property, showing the number, kind, amount, and quality; but a failure to enumerate in detail such personal property does not invalidate the assessment.
5. The cash value of real estate, other than city or town lots.
6. The cash value of improvements on such real estate.
7. The cash value of city and town lots.
8. The cash value of improvements on city and town lots.
9. The cash value of improvements on real estate assessed to persons other than the owners of the real estate.
10. The cash value of all personal property, exclusive of money.
11. The amount of money.
12. The assessment of the franchise, roadway, roadbeds, rails, and rolling stock of any railroad, as apportioned to his county by the State Board of Equalization, and also such other apportionments of such franchises, roadways, roadbeds, rails, and rolling stock as may be made by such Board, and furnished to him for the purpose of taxation in any district in his county. Taxable improvements owned by any person, firm, association, or corporation, located upon land exempt from taxation, shall, as to the manner of assessment, be assessed as other real estate upon the assessment book. No value shall, however, be assessed against the exempt land, nor under any circumstances shall the land be charged with or become responsible for the assessment made against any taxable improvements located thereon.

13. The school, road, and other revenue districts in which each piece of property assessed is situated.

14. The total value of all property.

15. When any property, except that owned by a railroad or other quasi-public corporation, is subject to or affected by a mortgage, deed of trust, contract, or other obligation by which a debt is secured, he must enter, in the proper column, the value of such security, and deduct the same. In entering assessments containing solvent credits subject to deductions, as provided in section three thousand six hundred and twenty-eight of this Code, he must enter in the proper column the value of the debts entitled to exemption and deduct the same. In making the deductions from the total value of property assessed, as above directed, he must enter the remainder in the column provided for the total value of all property for taxation. Each franchise must be entered in the assessment book without combining the same with other property or the valuation thereof.

16. The figure one (1), in separate columns, opposite the name of every person liable to pay a poll tax.

17. Such other things as the State Board of Equalization may require.

SEC. 7. Section three thousand six hundred and fifty-one is hereby amended so as to read as follows:

3651. The Assessor must prepare an index to the assessment book, which must show the name of the taxpayer, each page whereon his assessment appears, the post office address, or the post office address of his agent, secretary, or managing agent, when known. The State Board of Equalization shall prescribe the form of such index.

SEC. 8. Section three thousand six hundred and fifty-three is hereby amended so as to read as follows:

3653. 1. On or before the third Monday in July of each year, the Assessor must furnish such incorporated cities and towns within the county as shall make written request for the same, on or before the first Monday in March of each year, a complete certified copy of his assessment book, so far as such assessment book pertains to property within the limits of said incorporated cities and towns.

2. The Assessor may charge incorporated cities and towns five cents per folio of one hundred words for each copy of his assessment book furnished such incorporated cities and towns.

3. The Assessor must, on the first Monday of each month, furnish all such incorporated cities and towns within the county as shall make written request for the same, a description of all personal property, the name and address, by street and number, of the owners, and assessed value thereof, whenever the tax on such property is collected by the Assessor.

4. The Assessor may charge incorporated cities and towns five cents per folio of one hundred words for such description of personal property.

SEC. 9. Section three thousand six hundred and fifty-four is hereby amended so as to read as follows:

3654. As soon as completed, the assessment book, together with the map books, statements, and military roll, must be delivered to the Clerk of the Board of Supervisors, who must immediately give notice thereof, and of the time the Board will meet to equalize assessments, by publication in a newspaper, if any is printed in the county; if none, then in such manner as the Board may direct. In the meantime, the assessment book, map books, and statements must remain in his office for the inspection of all persons interested. After the Board of Equalization has completed its labors, the map books and statements shall be returned to the County Assessor's office, and shall be kept in said office for future reference.

SEC. 10. Section three thousand six hundred and fifty-five is hereby amended so as to read as follows:

3655. On the second Monday in July of each year, the Assessor of each county must transmit to the State Board of Equalization, in such form as said Board shall require, a statement, showing:

1. The several kinds of personal property.
2. The average and total value of each kind.
3. The number of live stock, number of bushels of grain, number of gallons of wines or liquors, number of pounds or tons of any article sold by the pound or ton.
4. When practicable, the separate value of each class of land, specifying the classes and the number of acres of each.
5. A true statement of the agricultural and industrial pursuits and products of the county, with such other statistical information as said Board shall require.

SEC. 11. Section three thousand six hundred and fifty-six is hereby amended so as to read as follows:

3656. Every Assessor who fails to complete his assessment book, or who fails to transmit the statement mentioned in the preceding section to the State Board of Equalization, forfeits the sum of one thousand dollars, to be recovered on his official bond, for the use of the county, in an action brought in the name of the People by the Attorney-General, when directed to do so by the State Board of Equalization.

SEC. 12. Section three thousand six hundred and fifty-eight is hereby amended so as to read as follows:

3658. The Board of Supervisors of each county must provide map and plat books for the use of the Assessor, showing the private lands owned or claimed in the county, and if surveyed under the authority of the United States, the divisions and subdivisions of the survey; if held under Spanish grant, the exterior boundaries of such grants, the divisions and subdivisions and number of acres claimed. Maps of cities and villages and school districts must in like manner be provided. The State Board of Equalization shall prescribe the forms for such map and plat books, and may require such map and plat books to be indexed to show owners' names, give correct description for assessment, show improvements, and assessed value. The cost of making such map and plat books is a county charge, and must be paid from the county General Fund.

SEC. 13. Section three thousand six hundred and sixty-one is hereby amended so as to read as follows:

3661. Any taxpayer who shall have knowledge of any property that has escaped taxation as provided in the preceding section, may file with the Board of Supervisors an affidavit, setting forth the fact that such property has, through the willful failure or neglect of the Assessor, escaped taxation, together with a description of the property as near as such taxpayer may be able to give; whereupon said Board shall direct the District Attorney to commence an action on the Assessor's bond for the amount of taxes lost from such willful failure or neglect.

SEC. 14. Section three thousand six hundred and sixty-two is hereby amended so as to read as follows:

3662. On the trial of such action, the value of the property unassessed being shown, judgment for the amount of taxes that should have been collected thereon must be entered. The amount thus recovered shall be distributed as provided in section three thousand eight hundred and sixteen of this Code.

SEC. 15. Section three thousand six hundred and sixty-three is hereby amended so as to read as follows:

3663. Water ditches constructed for mining, manufacturing, or irrigating purposes, and wagon and turnpike toll roads, must be assessed the same as real estate by the Assessor of the county, at a rate per mile for that portion of such property as lies within his county. All telegraph and telephone lines shall be described in the same manner as real estate is described, but assessed as personal property by the Assessor of the county, at a rate per mile for that portion of such property as lies within his county.

SEC. 16. Section three thousand six hundred and sixty-six is hereby amended so as to read as follows:

3666. The State Board of Equalization must prepare each year a book, to be called "Record of Assessments of Railways," in which must be entered each assessment made by the Board, either in writing or by both writing and printing. Each assessment so entered must be signed by the Chairman and Clerk. The record of the apportionment of the assessments made by the Board to the counties, and cities and counties, must be made in a separate book, to be called "Record of Apportionment of Railway Assessments." In such last described book must be entered the names of the railways assessed by the Board; the names of the corporations to which, or the name of the person or association to whom was assessed each railway in the State; the number of miles thereof in each county, or city and county; the total assessment of the franchise, roadway, roadbed, rails, and rolling stock, for purposes of State taxation; and the amount of the apportionment of such total assessment to each county, and city and county, for county, or city and county taxation. Before the third Monday in September of each year, the Clerk of the State Board of Equalization must prepare and transmit to the Controller of State duplicates of the "Record of Assessment of Railways" and "Record of Apportionment of Railway Assessments," each certified by the

Chairman and Clerk of the Board, and to be known, respectively, as "Duplicate Record of Assessment of Railways" and "Duplicate Record of Apportionment of Railway Assessments." In the last-named duplicate all necessary appropriate columns must be added, in which the Controller must enter the amount of taxes in installments due the State upon the whole assessment, by each corporation, person, or association, and the amount of taxes, in installments, due each county, or city and county, upon the assessment apportioned to each county, or city and county, by each corporation, person, or association. The two duplicates constitute the warrant for the Controller to collect the State and county, and city and county taxes levied upon such property assessed by the Board, and the amount of the apportionment of the assessment to each county and city and county, respectively.

SEC. 17. Section three thousand six hundred and sixty-seven is hereby amended so as to read as follows:

3667. When the Board of Supervisors of each county, and city and county, to which the State Board of Equalization has apportioned the assessment of railways, shall have fixed the rate of county, or city and county, taxation, the Clerk of the Board of Supervisors must, within three days after such rate has been fixed, transmit by mail, postage paid, to the Controller, in such form as the Controller shall direct, a statement of the rate of taxation levied by the Board of Supervisors for county, or city and county, taxation. If the Clerk fails to transmit such statement in the time herein provided for, he shall forfeit to the State one thousand dollars, to be recovered in an action brought by the Attorney-General, in the name of the Controller. On or before the second Monday of October, the Controller must compute and enter in separate money columns, in the "Duplicate Record of Apportionment of Railway Assessments," the respective sums, in dollars and cents, rejecting fractions of a cent, to be paid by the corporation, person, or association liable therefor, as the State tax upon the total amount of the assessment, and the county, or city and county, tax upon the apportionment of the assessment to each county, and city and county, of the property assessed to such corporation, person, or association named in said duplicate record.

SEC. 18. Section three thousand six hundred and seventy is hereby amended so as to read as follows:

3670. Within sixty days after the first Monday in June of each year, the Controller must begin an action in the proper Court, in the name of the People of the State of California, to collect the delinquent taxes upon the property assessed by the State Board of Equalization; such suit must be for the taxes due the State, and all the counties, and cities and counties, upon property assessed by the Board of Equalization, and appearing delinquent upon the "Duplicate Record of Apportionment of Railway Assessments." The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials, and appeals, are applicable to the proceedings herein provided for. In such action, should a writ of attachment be demanded and

issued, no bond nor affidavit previous to the issuing of said attachment is required. If in such action the plaintiff recover judgment, there shall be included in the judgment as counsel fees, and in case of judgment of taxes, after suit brought but before judgment, the defendant must pay as counsel fees such sum as the Court may determine to be reasonable and just. Payment of the taxes, or the amount of the judgment in the same, must be made to the State Treasurer. In such actions the "Duplicate Record of Assessments of Railways," and the "Duplicate Record of Apportionment of Railway Assessments," or a copy of them, certified by the Controller, showing unpaid taxes against any corporation, person, or association for property assessed by the State Board of Equalization, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of the taxes due and unpaid to the State, and counties, or cities and counties therein named, and that the corporation, person, or association is indebted to the people of the State of California in the amount of taxes, State and county, and city and county, therein appearing unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

SEC. 19. Section three thousand six hundred and seventy-eight is hereby amended so as to read as follows:

3678. To assist the Assessor in the performance of his duties, the Recorder must annually transmit to the Assessor, on or before the first Monday in April of each year, a complete abstract of all mortgages, deeds of trust, contracts, and other obligations by which any debt is secured, remaining unsatisfied on the records of his office, not barred by the statute of limitation, at twelve o'clock meridian, on the first Monday of March of said year. Such abstract shall be written under appropriate headings, to embrace all information requisite for the Assessor, in a book or books to be furnished by the Board of Supervisors upon the requisition of the Assessor. Should any such list be found to contain any instrument relating to lands situated in more than one county, it shall be the duty of the Assessor to transmit to the State Board of Equalization all information relating thereto on or before June first of said year; and it shall be the duty of the said Board to attach an apportionment of valuation of such instrument to be assessed in each county, and the Board shall transmit to the Assessor of each county mentioned as affected in said instrument, a statement of valuation of assessment to be levied against said instrument in each county. The valuation so set by said Board shall be final, and the Assessor shall accept said valuation and charge said assessment upon said instrument accordingly. Should the list contain any instrument mortgaging or pledging two or more subdivisions of land, or land assessed in two or more subdivisions in the same county, township, district, or city, the Assessor shall apportion the amount of assessment to be deducted from each subdivision on account of assessment against said instrument. Any assessment on a mortgage, or deed of trust, which has been erroneously taxed to the mortgagee, or party

loaning the money, when the same has been paid or satisfied prior to the first Monday in March, shall be valid only as against the real estate from the assessment on which a reduction has been previously made. When partial payments have been made on a debt secured by mortgage, or deed of trust, the owner is authorized to make the proper deduction, listing only the balance due on the first Monday in March. The Recorder must, at the time he furnishes the abstract of mortgages to the Assessor, furnish said officer with a complete and true statement of all property which has been redeemed under or by virtue of any sale made to the State for delinquent taxes, together with a complete and true statement of all property sold to the State and remaining unredeemed. When necessary, the Board of Supervisors of each county must provide for the payment of such additional clerical force as may be required to enable the County Recorder to comply with this section.

SEC. 20. A new section is hereby added to the Political Code of the State of California, to be known and designated as section three thousand six hundred and eighty, to read as follows:

3680. Whenever property has been sold for taxes and remains unredeemed, upon each subsequent assessment the Assessor shall enter upon the assessment book, immediately after the description of the property, the fact that said property has been sold for taxes, and the date of such sale. Upon all bills or statements of or for taxes accruing on said property, subsequent to the date of said sale and prior to the redemption of said property, or the execution to the State of a deed therefor, shall be distinctly and legibly written, printed, or stamped, the words, "Sold for taxes," and also the date of such sale.

SEC. 21. Section three thousand six hundred and ninety-two is hereby amended so as to read as follows:

3692. The powers and duties of the State Board of Equalization are as follows:

1. To prescribe rules for its own government and for the transaction of its business.
2. To prescribe rules and regulations, not in conflict with the Constitution and laws of the State, to govern Supervisors when equalizing, and Assessors when assessing.
3. To make out, prepare, and enforce the use of all forms in relation to the assessment of property, collection of taxes, and revenue of this State.
4. To hold regular meetings at the State Capitol, on the second Monday in each month, and such special meetings as the Chairman may direct.
5. To annually assess the franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in this State, at their actual value, on the first Monday in March, at twelve o'clock M., and to apportion such assessment to the counties and cities and counties in which such railroads are located, in proportion to the number of miles of railway laid in such counties and cities and counties, in the manner provided for in section three thousand six hundred and sixty-four of said Code.

6. To equalize the assessment of each mortgage, deed of trust, contract, or other obligation by which a debt is secured, and which affects property situate in two or more counties, and to apportion the assessment thereof to each of such counties.

7. To transmit to the Assessor of each county, or city and county, its apportionment of the assessments made by said Board upon the franchises, roadways, roadbeds, rails, and rolling stock of railroads, and also its apportionment of the assessments made by such Board upon mortgages, deeds of trust, contracts, and other obligations by which debts are secured, in the manner provided for in section three thousand six hundred and sixty-four of said Code.

8. To meet at the State Capitol on the first Monday in August, and remain in session from day to day, Sundays excepted, until the second Monday in September.

9. At such meeting to equalize the valuation of the taxable property of the several counties in this State for the purposes of taxation; and to the end, under such rules of notice to the Clerk of the Board of Supervisors of the county affected thereby, as it may prescribe, to increase or lower the entire assessment roll so as to equalize the assessment of the property contained in said roll, and make the assessment conform to the true value in money of the property assessed; and to fix the rate of State taxation, and to do the things provided in section three thousand six hundred and ninety-three of said Code; *provided*, that no Board of Equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value.

10. To visit as a Board, or by the individual members thereof, whenever deemed necessary, the several counties of the State, for the purpose of inspecting the property and learning the value thereof.

11. To call before it, or any member thereof, on such visit, any officers of the county, and to require them to produce any public records in their custody.

12. To issue subpoenas for the attendance of witnesses or the production of books before the Board, or any member thereof; which subpoenas must be signed by a member of the Board, and may be served by any person.

13. To appoint a clerk, prescribe and enforce his duties. The clerk shall hold his office during the pleasure of the Board.

14. To report to the Governor, annually, a statement, showing:

*First*—The acreage of each county in the State that is assessed.

*Second*—The amount assessed per acre.

*Third*—The aggregate value of all town and city lots.

*Fourth*—The aggregate value of all real estate in the State.

*Fifth*—The kinds of personal property in each county, and the value of each kind.

*Sixth*—The aggregate value of all personal property in the State.

*Seventh*—Any information relative to the assessment of property, and the collection of revenue.

*Eighth*—Such further suggestions as it shall deem proper.

15. To keep a record of all its proceedings.

SEC. 22. Section three thousand six hundred and ninety-three is hereby amended so as to read as follows:

3693. When, after a general investigation by the Board, the property is found to be assessed above or below its full cash value, the Board may, without notice, so determine, and must add to or deduct from the valuation:

1. The real estate.

2. Improvements upon such real estate.

3. The personal property—such per centum, respectively, as is sufficient to raise or reduce it to its full cash value; *provided*, that no Board of Equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value.

SEC. 23. Section three thousand six hundred and ninety-four is hereby amended so as to read as follows:

3694. Every County Auditor who fails to forward to the State Board of Equalization, and to the Controller, the statement provided for in section three thousand seven hundred and twenty-eight, forfeits to the State one thousand dollars, to be recovered in an action brought by the Attorney-General, in the name of the State Board of Equalization.

SEC. 24. Section three thousand seven hundred and four is hereby amended so as to read as follows:

3704. If the Board of Supervisors of any county fails or refuses either—

1. To furnish the Assessor with the proper books, maps, map books, or blanks for his use; or,

2. To furnish the Assessor necessary office room,

Then the State Board of Equalization must, upon the application of the Assessor, furnish the necessary books, maps, map books, blanks, or office room; and all the expense incurred in carrying into effect the provisions of this section must, by the Secretary of the Board, be certified to the Controller, who must, in his next settlement with the County Treasurer of any such county, require such Treasurer to pay the amount out of any funds belonging to such county.

SEC. 25. Section three thousand seven hundred and five is hereby amended so as to read as follows:

3705. The State Board of Equalization may, by an order entered upon its minutes, and certified to the County Auditor of any county, extend, for not exceeding twenty days, the time fixed in this title for the performance of any act by the County Assessor, County Auditor, or County Boards of Equalization.

SEC. 26. Section three thousand seven hundred and fourteen is hereby amended so as to read as follows:

3714. The Board of Supervisors of each county must, on the third Monday in September, fix the rate of county taxes, designating the number of cents on each one hundred dollars of property levied for each fund, and must levy the State and county taxes upon the taxable property of the county; *provided*, that it shall not be lawful for any Board of Supervisors of any

county in the State to levy, nor shall any tax greater than fifty cents on each one hundred dollars of property be levied and collected in any one year, to pay the bonded indebtedness, or judgment arising therefrom, of this State, or of any county or municipality in this State.

SEC. 27. Section three thousand seven hundred and nineteen is hereby amended so as to read as follows:

3719. The State Board of Equalization must levy, annually, at the time other State taxes are levied, a tax of such number of cents on each one hundred dollars of value of taxable property in the State as will produce a net sum equal to the amount directed by the Legislature as being necessary to be raised, by an ad valorem tax, for school purposes; and the assessment and collection of said tax shall be performed in the same manner and at the same time as other State taxes are assessed and collected.

SEC. 28. Section three thousand seven hundred and twenty-eight is hereby amended so as to read as follows:

3728. The Auditor must, on or before the second Monday in August in each year, prepare from the "Assessment Book" of such year, as corrected by the Board of Supervisors, duplicate statements, showing in separate columns—

1. The number of acres of land.
2. The total value of all property.
3. The value of real estate.
4. The value of the improvements thereon.
5. The value of personal property, exclusive of money.
6. The amount of money.
7. The assessed value of mortgages.
8. The assessed value of all property sold to the State for taxes.

SEC. 29. Section three thousand seven hundred and thirty is hereby amended to read as follows:

3730. As soon as the Auditor receives from the State Board of Equalization a statement of the changes made by the Board in the assessment book of the county, he must make the corresponding changes in the assessment book, by entering the same in a column provided with a proper heading in the assessment book, counting any fractional sum when more than fifty cents as one dollar, and omitting it when less than fifty cents, so that the value of any separate assessment shall contain no fraction of a dollar; but he shall, in all cases, disregard any action of the Board of Supervisors which is prohibited by section three thousand six hundred and thirty-three of this Code.

SEC. 30. Section three thousand seven hundred and thirty-one is hereby amended so as to read as follows:

3731. The Auditor must then compute, and enter in a separate money column in the assessment book, the respective sums, in dollars and cents, rejecting the fractions of a cent, to be paid as a tax on the property therein enumerated, and segregate and place in the proper columns of the book the respective amounts due in installments, as provided in section three thousand seven hundred and forty-six of this Code, and foot up

the column, showing the total amount of such taxes, and the columns of total value of property in the county, as corrected under the direction of the State Board of Equalization.

SEC. 31. Section three thousand seven hundred and thirty-two is hereby amended so as to read as follows:

3732. On or before the first Monday in October, he must deliver the corrected assessment book to the Tax Collector, with an affidavit attached thereto, and by him subscribed, as follows:

"I, —, Auditor of the county of —, do swear that I received the assessment book of the taxable property from the Clerk of the Board of Supervisors, with his affidavit thereto affixed, and that I have corrected it and made it to conform to the requirements of the State Board of Equalization; that I have reckoned the respective sums due as taxes, and have added up the columns of valuation, taxes, and acreage, as required by law."

SEC. 32. Section three thousand seven hundred and thirty-three is hereby repealed.

SEC. 33. Section three thousand seven hundred and thirty-four is hereby amended so as to read as follows:

3734. On delivering the assessment book to the Tax Collector, the Auditor must charge the Tax Collector with the full amount of the taxes levied, except the taxes due upon railway assessments made by the State Board of Equalization, and forthwith transmit by mail to the Controller of State a statement of the amount so charged.

SEC. 34. Section three thousand seven hundred and thirty-six is hereby amended so as to read as follows:

3736. The Auditor, if the assessment book or the delinquent tax list is transferred from one Collector to another, must credit the one and charge the other with the amount then outstanding on the tax list.

SEC. 35. Section three thousand seven hundred and thirty-seven is hereby repealed.

SEC. 36. Section three thousand seven hundred and thirty-eight is hereby amended so as to read as follows:

3738. On or before the first Monday in March of each year, the Auditor shall furnish the Assessor with blank "personal property" receipts in book form, with stubs attached, numbered the same as the receipts, each book having fifty receipts, in a form prescribed in section three thousand six hundred and forty, and charge the Assessor with the number of receipts issued. On the first Monday in August, the Assessor shall return all unused receipts, and the Auditor shall credit him with the numbers returned.

SEC. 37. Section three thousand seven hundred and forty-six is hereby amended so as to read as follows:

3746. Within ten days after the receipt of the assessment book, the Tax Collector must publish a notice, specifying:

1. That the taxes on all personal property secured by real property, and one half of the taxes on all real property, will be due and payable on the first Monday in October, and will be

delinquent on the last Monday in November next thereafter, at six o'clock P. M., and that unless paid prior thereto, fifteen per cent will be added to the amount thereof, and that if said one half be not paid before the last Monday in April next, at six o'clock P. M., an additional five per cent will be added thereto. That the remaining one half of the taxes on all real property will be payable on and after the first Monday in January next, and will be delinquent on the last Monday in April next thereafter, at six o'clock P. M., and that unless paid prior thereto, five per cent will be added to the amount thereof.

2. That all taxes may be paid at the time the first installment, as herein provided, is due and payable.

3. The times and places at which payment of taxes may be made.

SEC. 38. Section three thousand seven hundred and forty-seven is hereby amended so as to read as follows:

3747. The taxes on any particular lot, piece, or parcel of land contained in any assessment may be paid separately from the whole assessment, by paying the amount of State and county taxes due on such lot, piece, or parcel of land, with a proper proportion of the amounts due as tax on personal property, penalties, if any, and a proper proportion of the tax due to any school, road, or other lesser taxation. The Tax Collector shall make an entry on the margin of the assessment book, showing what certain property has been released by the payment of the taxes as herein provided, together with the amounts of such taxes separately and specifically set forth.

SEC. 39. Section three thousand seven hundred and forty-eight is hereby amended so as to read as follows:

3748. All taxes must be paid at the office of the Tax Collector, unless the Board of Supervisors by order, made on or before the first Monday in October, direct that the taxes must be collected in the several townships of the county, or in either thereof, or in any municipal corporation in said county; in which case, the notice by the Tax Collector must specify a time and place within any township or municipal corporation named in such order, when and where the Tax Collector will attend to receive the payment of taxes.

SEC. 40. Section three thousand seven hundred and fifty-two is hereby amended so as to read as follows:

3752. The Superior Court must require every administrator or executor to pay out of the funds of the estate all taxes due from such estate; and no order or decree for the distribution of any property of any decedent among the heirs or devisees must be made until all taxes against the estate are paid. In the same manner, the Court must require the assignee to pay out of the funds of an insolvent's estate all taxes due from such estate; and no final discharge to such assignee shall be granted until all taxes against the insolvent's estate are paid.

SEC. 41. Section three thousand seven hundred and fifty-six is hereby amended so as to read as follows:

3756. On the last Monday in November of each year, at six o'clock P. M., all taxes then unpaid, except the last install-

ment of the real property taxes, are delinquent, and thereafter the Tax Collector must collect, for the use of the county, or city and county, an addition of fifteen per cent thereon; *provided*, that if they be not paid before the last Monday in April next succeeding, at six o'clock P. M., he shall collect an addition of five per cent thereon. On the last Monday in April of each year, at six o'clock P. M., all the unpaid portion of the remaining one half of the taxes on all real property are delinquent, and thereafter the Tax Collector must collect, for the use of the county, or city and county, an addition of five per cent thereon; *provided*, that the entire tax on any real property may be paid at the time the first installment, as above provided, is due and payable; *and provided further*, that the taxes on all personal property unsecured by real property shall be due and payable immediately after the assessment of said personal property is made.

SEC. 42. Section three thousand seven hundred and fifty-eight is hereby amended so as to read as follows:

3758. On the second Monday in December of each year, in each of the counties, and cities and counties of this State, the Tax Collector must attend at the office of the Auditor with the assessment book, having all items of taxes collected marked "paid." The Auditor shall thereupon compute and enter against all the items of taxes due and unpaid the penalty for delinquency, foot up the total amount of penalties then due, and must, within ten days thereafter, deliver to said Tax Collector the assessment book and charge him with the amount of said penalties. After April thirtieth, and on or before the second Monday in May of each year, the Tax Collector must notify all persons, or their agents, by mail when post office address can be ascertained, that their taxes have become delinquent, the amount of said taxes, and that the same will be sold unless paid prior to the third day of July of that year.

SEC. 43. Section three thousand seven hundred and fifty-nine is hereby amended so as to read as follows:

3759. On the third Monday in May of each year, in each of the counties, and cities and counties of this State, the Tax Collector must attend at the office of the Auditor with the assessment book, having all items of taxes and penalties collected marked "paid," and at the same time he shall deliver to the Auditor a complete delinquent list of all persons and property then owing taxes.

SEC. 44. Section three thousand seven hundred and sixty-two is hereby amended so as to read as follows:

3762. After settlement with the Tax Collector, as prescribed in the preceding section, the Auditor must charge the Tax Collector then acting with the amount of taxes due on the delinquent tax list, with the penalty or penalties added thereto, and within three days thereafter deliver the list, duly certified, to such Tax Collector.

SEC. 45. Section three thousand seven hundred and sixty-four is hereby amended so as to read as follows:

3764. On or before the fifth day in June of each year the Tax Collector must publish the delinquent list, which

must contain the names of the persons and a description of the property delinquent, and the amount of taxes, penalties, and costs due, opposite each name and description, with the taxes due on personal property, the delinquent State, poll, road, and hospital tax, the taxes due each school, road, or other lesser taxation district, added to the taxes on real estate, where the real estate is liable therefor, or the several taxes are due from the same person. The expense of the publication to be a charge against the county, or city and county.

SEC. 46. Section three thousand seven hundred and sixty-five is hereby amended so as to read as follows:

3765. The Tax Collector must append and publish with the delinquent list a notice that unless the taxes delinquent, together with the costs and penalties, are paid, the real property upon which such taxes are a lien will be sold.

SEC. 47. Section three thousand seven hundred and sixty-six is hereby amended so as to read as follows:

3766. The publication must be made once a week for three successive weeks in some newspaper, or supplement thereto, published in the county, and the Board of Supervisors must contract for such publication with the lowest bidder, and after ten days' public notice that such will be let. The bidding must be by sealed proposals. If there is no newspaper published in the county, then by posting a copy of the list in three public places in each township.

SEC. 48. Section three thousand seven hundred and sixty-seven is hereby amended so as to read as follows:

3767. The publication must designate the day and hour when the property will, by operation of law, be sold to the State, which sale must not be less than twenty-one nor more than twenty-eight days from the time of the first publication, and the place shall be in the Tax Collector's office.

SEC. 49. Section three thousand seven hundred and sixty-eight is hereby repealed.

SEC. 50. Section three thousand seven hundred and seventy is hereby amended so as to read as follows:

3770. The Tax Collector must collect, in addition to the taxes due on the delinquent list, together with the penalties for delinquency, fifty cents on each lot, piece, or tract of land separately assessed, and on each assessment of personal property, which shall be paid to the county and be placed to the credit of the salary fund.

SEC. 51. Section three thousand seven hundred and seventy-one is hereby amended so as to read as follows:

3771. On the day and hour fixed for the sale, all the property delinquent, upon which the taxes of all kinds, penalties, and costs have not been paid, shall, by operation of law and the declaration of the Tax Collector, be sold to the State, and said Tax Collector shall make an entry, "Sold to the State," on the delinquent assessment list, opposite the tax, and he shall be credited with the amount thereof in his settlement made pursuant to sections three thousand seven hundred and ninety-seven, three thousand seven hundred and ninety-eight,

and three thousand seven hundred and ninety-nine; *provided*, that on the day of sale the owner or person in possession of any property offered for sale for taxes due thereon, may pay the taxes, penalties, and costs due; *and provided further*, that when the original tax amounts to the sum of three hundred dollars or more upon any piece of property or assessment delinquent, the State may bring suit against the owner of said property for the collection of said tax or taxes, penalties, and costs, as provided in section three thousand eight hundred and ninety-nine.

SEC. 52. Section three thousand seven hundred and seventy-two is hereby amended so as to read as follows:

3772. Immediately upon completion of the sale provided for in the preceding section, the Tax Collector must, by mail or express, transmit to the Controller a statement or report, in such form as the Controller may desire, showing in detail each sale wherein the State became such purchaser.

SEC. 53. Section three thousand seven hundred and seventy-three is hereby repealed.

SEC. 54. Section three thousand seven hundred and seventy-four is hereby repealed.

SEC. 55. Section three thousand seven hundred and seventy-five is hereby repealed.

SEC. 56. Section three thousand seven hundred and seventy-six is hereby amended so as to read as follows:

3776. The Tax Collector must make out a certificate of delinquent tax sale for each piece or tract of land sold, dated on the day of the sale, stating (when known) the name of the person assessed, a description of the land sold, that it was sold for delinquent taxes to the State, and giving the amount and year of the assessment, and specifying when the State will be entitled to a deed.

SEC. 57. Section three thousand seven hundred and seventy-seven is hereby amended so as to read as follows:

3777. Such certificate must be signed by the Tax Collector, regularly numbered in a book, and the book must be filed in the office of the County Recorder, and when so filed with the Recorder's filing on each certificate in said book, it must be regarded as recorded in the Recorder's office. The State Controller shall prescribe the form of such certificate of sale and record book. The Recorder must index such certificates of sale in an index book, kept for that purpose, the form of which shall be prescribed by the State Controller. In case of a redemption, or a subsequent sale of any of said property by the State, the Recorder must enter on the margin of the certificate, describing such property in said certificate book of record in his office, the fact of such redemption or sale, giving the date thereof, and by whom redeemed.

SEC. 58. Section three thousand seven hundred and seventy-eight is hereby repealed.

SEC. 59. Section three thousand seven hundred and seventy-nine is hereby repealed.

SEC. 60. Section three thousand seven hundred and eighty is hereby amended so as to read as follows:

3780. A redemption of the property sold may be made by the owner, or any party in interest, within five years from the date of the sale to the State, or at any time prior to the entry or sale of said land by the State, in the manner provided by section three thousand eight hundred and seventeen.

SEC. 61. Section three thousand seven hundred and eighty-one is hereby amended so as to read as follows:

3781. Redemption must be made to the County Treasurer on an estimate furnished by the Auditor, in lawful money of the United States, and the Treasurer must account to the State for all moneys received under such redemption, which said moneys shall be distributed in the manner provided by section three thousand eight hundred and sixteen.

SEC. 62. Section three thousand seven hundred and eighty-five is hereby amended so as to read as follows:

3785. If the property is not redeemed within the time allowed by law for its redemption, the Tax Collector, or his successor in office, must make the State a deed of the property, reciting in such deed the name of the person assessed (when known), the date of sale, a description of the land sold, the amount for which it was sold, that it was sold for delinquent taxes, giving the assessed value and the year of assessment, the time when the right of redemption had expired, and that no person has redeemed the property in the time allowed by law for its redemption. No charge shall be made by the Tax Collector for the making of any such deed, and the acknowledgment of all such deeds shall be taken by the County Clerk free of charge. All such deeds shall be recorded in the office of the County Recorder of the county wherein the property sold is situated, and said Recorder shall make no charge therefor. The State Controller shall provide uniform blank deeds, upon which all conveyances to the State under the provisions of this section shall be made. All such deeds, after being duly recorded as herein provided, shall be forwarded by the County Recorder to the Controller. The Controller shall record such deeds at length in a book to be provided for that purpose, in which book a marginal space shall be left to show the subsequent disposition of the property by the State; *provided, however,* that when State lands have been sold to the State upon which the full purchase price of one dollar and twenty-five cents per acre has not been paid, the deeds to the State, after being duly recorded as herein provided, shall be forwarded by the County Recorder to the Surveyor-General, and remain on file in his office, and the State shall dispose of such lands in the manner provided in section three thousand seven hundred and eighty-eight. In all cases where land has heretofore been sold to the State for delinquent taxes, the deed therefor shall be made to the State within one year after this Act takes effect; *provided, five years shall have elapsed after the date of such sale.*

SEC. 63. Section three thousand seven hundred and eighty-seven is hereby amended so as to read as follows:

3787. Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings, from the assessment by the Assessor, inclusive, up to the execution of the deed. Such deed conveys to the State the absolute title to the property described therein, free of all incumbrances, except when the land is owned by the United States, or this State, in which case it is *prima facie* evidence of the right of possession, accrued as of the date of the deed to the State.

SEC. 64. Section three thousand seven hundred and eighty-eight is hereby amended so as to read as follows:

3788. When State lands, upon which the full purchase price of one dollar and twenty-five cents per acre has not been paid, and the deed therefor to the State provided for in section three thousand seven hundred and eighty-five has been forwarded to and filed with the Surveyor-General, the said lands shall again become subject to entry and sale, in the same manner, and subject to the same conditions, as apply to other State lands of like character, except that the former possessors of the lands thus deeded to the State, their heirs or assigns, shall be preferred purchasers thereof for the period of six months after the deeds are filed with the Surveyor-General; but the Surveyor-General shall not permit an entry or make a sale of any lands thus deeded to the State, except upon the previous payment into the State Treasury, as other moneys are required to be paid therein, in addition to the price of said lands as compared with the price fixed for other State lands of like character, by the person or persons proposing to make the entry or purchase, of a sum equal to the delinquent taxes, penalties, costs, and accruing costs, by virtue whereof the State became a purchaser of the lands thus sought to be entered or purchased, and also all delinquent taxes, penalties, and costs which may have accrued upon such lands prior to and subsequent to the date of the sale to the State, in pursuance of which the State received a deed therefor. The money thus paid into the treasury shall be distributed in the manner prescribed in section three thousand eight hundred and sixteen; *provided*, that the moneys received for twenty per cent of the purchase money and accruing interest, together with the principal, in case of full payment on the lands, shall be distributed by the Surveyor-General, in the manner now provided by law for such distribution.

SEC. 65. Section three thousand seven hundred and eighty-nine is hereby amended so as to read as follows:

3789. The assessment book or delinquent list, or copy thereof, certified by the County Auditor, showing unpaid taxes against any person or property, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

SEC. 66. Section three thousand seven hundred and ninety is hereby amended so as to read as follows:

3790. The Assessor of each county, and city and county, shall have power, between the first Monday in March and the

third Monday in July of each year, to collect the taxes due on personal property, except when real estate is liable therefor, by seizure and sale of any personal property owned by the delinquent.

SEC. 67. Section three thousand seven hundred and ninety-three is hereby amended so as to read as follows:

3793. For seizing or selling personal property, the Assessor may charge in each case the sum of three dollars, and the same mileage as is allowed by law to the Sheriff of the county.

SEC. 68. Section three thousand seven hundred and ninety-seven is hereby amended so as to read as follows:

3797. The Tax Collector must, on or before the last day in June of each year, attend at the office of the Auditor with the delinquent list, with all items collected marked "paid" thereon, and the Auditor must then carefully compare the list with the assessment of persons and property not marked "paid" on the assessment book, and when taxes have been paid, must note the fact in the appropriate column in the assessment book.

SEC. 69. Section three thousand seven hundred and ninety-nine is hereby amended so as to read as follows:

3799. The Auditor must then foot up the amount of taxes unpaid, and credit the Tax Collector with the amount, and have a final settlement with him; and the delinquent list must remain on file in the Auditor's office.

SEC. 70. Section three thousand eight hundred is hereby amended so as to read as follows:

3800. At the time mentioned in section three thousand seven hundred and sixty-four, the Tax Collector must make an affidavit, indorsed on the list, that the taxes not marked "paid" have not been paid.

SEC. 71. A new section is hereby added to the Political Code of the State of California, to be known and designated as section three thousand eight hundred and one, to read as follows:

3801. It shall be the duty of the Tax Collector, within thirty days after the sale of any land for delinquent taxes, to furnish to the Auditor the complete printed list of all such lands so sold, and thereupon the Auditor shall enter upon the assessment book, immediately after the description of the property, the fact that said property has been sold for taxes, and the date of such sale.

SEC. 72. Section three thousand eight hundred and three is hereby repealed.

SEC. 73. Section three thousand eight hundred and four is hereby amended so as to read as follows:

3804. Any taxes, penalties, and costs paid more than once, or erroneously or illegally collected, may, by the order of the Board of Supervisors, be refunded by the County Treasurer; and whenever any payments shall have been made to the State Treasurer by the County Treasurer, as provided by sections three thousand eight hundred and sixty-five and three thousand eight hundred and sixty-six of this Code, and it shall

afterwards appear to the satisfaction of the Board of Supervisors that a portion of the money so paid has been paid more than once, or erroneously or illegally collected, said Board may refund such portions of said taxes, penalties, and costs so paid to the State Treasurer, to the person entitled to the same, out of the General Fund in the County Treasury; and upon rendering the report required by section three thousand eight hundred and sixty-eight, the Auditor shall certify to the Controller, in such form as the Controller may prescribe, all amounts so refunded, and in the next settlement of the County Treasurer with the State the Controller, if satisfied of the legality of such refunding by said Board, shall give such Treasurer credit for the State's portion of the amounts so refunded, as prescribed in section three thousand eight hundred and seventy-one.

SEC. 74. Section three thousand eight hundred and five is hereby amended so as to read as follows:

3805. When the Tax Collector discovers that any property has been assessed more than once for the same year, he must collect only the tax justly due, and make return of the facts, under affidavit, to the Auditor, who shall, when directed to do so by the Board of Supervisors, cancel one of said erroneous or double assessments by an entry on the margin of the assessment book, as also on the delinquent list, should such erroneous or double assessment be carried therein. If the property assessed under such erroneous or double assessment has been sold, and a certificate or deed therefor has been issued, such fact shall be certified to the Controller by the Auditor and Tax Collector, and thereupon the Controller shall issue his certificate, under seal, authorizing the Auditor to cancel such erroneous or double assessment; *provided*, no cancellation of an erroneous or double assessment shall be made in any case until the taxes, penalties, and costs upon one of such assessments shall have been paid. Whenever the possessory interest in land belonging to the United States has been assessed, and sold to the State for delinquent State and county taxes, the Board of Supervisors in the respective counties shall have power, upon the application of the owner of the land, his representative, or any party interested therein, to direct the County Auditor to cancel the certificate of sale in which such possessory interest was sold. Before an order to cancel the certificate, as provided in this section, can be granted by the Board of Supervisors, the applicant must satisfy the Board that all taxes against the land, or the possessory interest therein of such owner or his predecessor in title, have been paid.

SEC. 75. Section three thousand eight hundred and eight is hereby amended so as to read as follows:

3808. If any person removes from one county to another, after being assessed on personal property, the Assessor of the county in which he was assessed may employ an attorney to sue for and collect the same in the Assessor's name; but such Assessor shall not be relieved from the provisions of this chapter.

SEC. 76. Section three thousand eight hundred and ten is hereby repealed.

SEC. 77. Section three thousand eight hundred and eleven is hereby repealed.

SEC. 78. Section three thousand eight hundred and twelve is hereby repealed.

SEC. 79. Section three thousand eight hundred and thirteen is hereby amended so as to read as follows:

3813. In case property assessed for taxes is purchased by the State, pursuant to provisions of section three thousand seven hundred and seventy-one of this Code, it shall be assessed each subsequent year for taxes until a deed is made to the State therefor in the same manner as if it had not been so purchased.

SEC. 80. Section three thousand eight hundred and fourteen is hereby amended so as to read as follows:

3814. In case an assessment is made under the provisions of section three thousand eight hundred and thirteen of this Code, and the lands are not redeemed from a previous sale had under section three thousand seven hundred and seventy-one, as provided by law, no sale shall be had under the assessment authorized by said section three thousand eight hundred and thirteen.

SEC. 81. Section three thousand eight hundred and fifteen is hereby amended so as to read as follows:

3815. In case property is sold to the State, pursuant to section three thousand seven hundred and seventy-one of this Code, and is subsequently assessed pursuant to section three thousand eight hundred and thirteen of this Code, no person shall be permitted to redeem from such sale, except upon payment of the amount of such subsequent assessments, costs, fees, penalties, and interest.

SEC. 82. Section three thousand eight hundred and sixteen is hereby amended so as to read as follows:

3816. Whenever property sold to the State, pursuant to the provisions of this chapter, shall be redeemed as herein provided, the moneys received on account of such redemption shall be distributed as follows: The original and subsequent taxes, and percentages, penalty, and the interest paid on redemption, shall be apportioned between the State and county, or city and county, in the same proportion that the State rate bears to the county, or city and county, rate of taxation; the additional penalties received on account of delinquency, together with the costs, shall be paid into the treasury for the use and benefit of the county, or city and county; the total amount received for State poll tax shall be paid to the State, without deduction of any percentages; the amounts received for road or hospital poll tax, and the amounts received for school, or road district, or other taxes, together with the penalties thereon, shall be paid into the County Treasury, and placed to the credit of the proper funds. The County Treasurer and Auditor shall each keep an accurate account of any and all moneys received in pursuance of this section, and shall at the time the Treasurer is required to settle with the State, in pursuance of sections three thousand eight hundred and sixty-five, three thousand eight hundred and sixty-six, and three

thousand eight hundred and sixty-eight, make a detailed report, verified by their affidavit, of each account, year for year, to the Controller of State, in such form as the Controller may desire.

SEC. 83. Section three thousand eight hundred and seventeen is hereby amended so as to read as follows:

3817. In all cases where real estate has been or may hereafter be sold for delinquent taxes to the State, and the State has not disposed of the same, the person whose estate has been or may hereafter be sold, his heirs, executors, administrators, or other successors in interest, shall, at any time after the same has been sold to the State and before the State shall have disposed of the same, have the right to redeem such real estate, by paying to the County Treasurer of the county wherein the real estate may be situated, the amount of taxes due thereon at the time of said sale, with interest thereon at the rate of seven per cent per annum; and also all taxes that were a lien upon said real estate at the time said taxes became delinquent; and also for each year since the sale for which taxes on said land have not been paid, an amount equal to the percentage of taxes for that year upon the value of the real estate as assessed for that year, or, if not so assessed, then upon the value of the property as assessed in the year nearest the time of such redemption, with interest from the first day of January of each of said years, respectively, at the same rate, to the time of redemption; and also all costs and expenses of such redemption, as hereinafter specified, and penalties as follows, to wit: Ten per cent, if redeemed within six months from the date of sale; twenty per cent, if redeemed within one year therefrom; forty per cent, if redeemed within two years therefrom; sixty per cent, if redeemed within three years therefrom; eighty per cent, if redeemed within four years therefrom; and one hundred per cent, if redeemed within five or any greater number of years therefrom. The penalty shall be computed upon the amount of each year's taxes in like manner, reckoning from the time when the lands would have been sold for the taxes of that year, if there had been no previous sale thereof. The County Auditor shall, on the application of the person desiring to redeem, make an estimate of the amount to be paid, and shall give him triplicate certificates of the amount, specifying the several amounts thereof, which certificates shall be delivered to the County Treasurer, together with the money, and the County Treasurer shall give triplicate receipts, written or indorsed upon said certificates, to the redemptioner, who shall deliver one of said receipts to the State Controller and one to the County Auditor, taking their receipts therefor. The County Treasurer shall settle for the moneys received as for other State and county moneys. Upon the payment of the money specified in said certificate, and the giving of the receipts aforesaid by the Treasurer, Controller, and Auditor, any deed or certificate of sale that may have been made to the State shall become null and void, and all right, title, and interest acquired by the State, under and by virtue of the tax

sale, shall cease and determine. The receipts of the County Treasurer, Controller, and County Auditor may be recorded in the Recorder's office of the county in which said real estate is situated, in the book of deeds, and the record thereof shall have the same effect as that of a deed of reconveyance of the interest conveyed by such deed or certificate of sale. This Act shall apply to State lands sold by the State when the full amount of the purchase price of one dollar and twenty-five cents per acre has not been paid to the State therefor, except when the deed to the State, provided for in section three thousand seven hundred and eighty-five, has been filed with the Surveyor-General.

SEC. 84. Section three thousand eight hundred and eighteen is hereby amended so as to read as follows:

3818. A redemption may be made of any lot, piece, or parcel of land contained in any assessment, separately from the whole assessment, in the manner following: In the estimate provided for in the preceding section, the Auditor shall estimate the amount of State and county taxes due on such lot, piece, or parcel of land, together with a proper proportion of the taxes due on personal property under such assessment, and of the taxes due each school, road, or lesser taxation district; and such redemption shall be made in the manner provided for in the preceding section. The Recorder shall note, on the margin of the record of the certificate of sale, a description of the property thus redeemed, and shall specifically set forth the several amounts of taxes paid upon such redemption.

SEC. 85. Section three thousand eight hundred and nineteen is hereby amended so as to read as follows:

3819. At any time after the assessment book has been received by the Tax Collector, and the taxes have become payable, the owner of any property assessed therein, who may claim that the assessment is void in whole or in part, may pay the same to the Tax Collector under protest, which protest shall be in writing, and shall specify whether the whole assessment is claimed to be void, or if a part only, what portion, and in either case the grounds upon which such claim is founded and when so paid under protest, the payment shall in no case be regarded as voluntary payment, and such owner may at any time within six months after such payment bring an action against the county, in the Superior Court, to recover back the tax so paid under protest. And if it shall be adjudged that the assessment, or the part thereof referred to in the protest, was void on the ground specified in the protest, judgment shall be entered against such county therefor; *provided*, that no assessment shall be declared void on account of deductions being made for mortgages where part payments have been made and not released upon the record. On the payment of any such judgment, such part of the tax recovered thereby as may have been paid by the County Treasurer into the State Treasury, shall be regarded as an amount due the county from the State, and shall be deducted in the next settlement had by the county with the Controller; such deductions to be made in

the manner that other deductions are made, as provided in section three thousand eight hundred and seventy-one of this Code.

SEC. 86. Section three thousand eight hundred and twenty is hereby amended so as to read as follows:

3820. The Assessor must collect the taxes on all personal property when, in his opinion, said taxes are not a lien upon real property sufficient to secure the payment of the taxes. The taxes on all assessments of possession of, claim to, or right to the possession of land, shall be immediately due and payable upon assessment, and shall be collected by the Assessor as provided in this chapter.

SEC. 87. Section three thousand eight hundred and twenty-three is hereby amended so as to read as follows:

3823. The Assessor shall be governed as to the amount of taxes to be collected upon personal property by the State and county rate for the previous year.

SEC. 88. Section three thousand eight hundred and twenty-six is hereby amended so as to read as follows:

3826. The Assessor, on the first Monday in each month, must make a settlement with the Auditor, and must pay into the County Treasury all moneys collected by him for such taxes during the preceding month.

SEC. 89. Section three thousand eight hundred and twenty-nine is hereby amended so as to read as follows:

3829. For services rendered in the collection of taxes under section three thousand eight hundred and twenty, the Assessors of the several counties, or cities and counties, shall receive such compensation as the Act governing salaries of county officers may provide.

SEC. 90. Section three thousand eight hundred and thirty is hereby repealed.

SEC. 91. A new section is hereby added to the Political Code of the State of California, to be known and designated as section three thousand eight hundred and thirty-one, to read as follows:

3831. Within fifteen days after the first Monday in August of each year, the Auditor of the county, or city and county, must make a careful examination of the assessment book or books of the county, or city and county, and ascertain therefrom the amount or amounts of all taxes that should have been collected by the Assessor in pursuance of this chapter, and which have not been collected. He must then state an account to the Assessor, and demand from him that the amount or amounts so remaining uncollected shall be paid into the County Treasury within fifteen days from the date of said demand. If, at the expiration of said time, the Assessor has not settled for and paid said amount or amounts into the treasury as aforesaid, the District Attorney must commence an action in the proper Court against the Assessor and his bondsmen, for the recovery of said amount or amounts so remaining uncollected; and upon the trial of such action no defense shall be admissible, except that the assessment or assessments are illegal, invalid, or void.

SEC. 92. Section three thousand eight hundred and forty is hereby amended so as to read as follows:

3840. Poll tax must be collected by the Assessors between the first Monday in March and the last Monday in December of the same year.

SEC. 93. Section three thousand eight hundred and forty-one is hereby amended so as to read as follows:

3841. The County Treasurer must, before the first Monday in March and the first Monday in July of each year, cause to be printed, respectively, two- and three-dollar blank poll-tax receipts, in book form, with stubs numbered the same as the receipts, of one hundred in each book, a sufficient number for the use of the Assessor. The stubs shall have a line for the name of the poll-tax payer, his age, residence, occupation, by whom employed, and the name of the deputy collecting the tax.

SEC. 94. Section three thousand eight hundred and fifty-four is hereby amended so as to read as follows:

3854. On the first Monday in July, the Assessor must return to the Auditor all two-dollar blank poll-tax receipts received by him and not used, and pay to the Treasurer the total amount collected and not before paid in, less the amount of his fees, and the Auditor must deliver to him the three-dollar receipts; and on the last Monday in December of each year, he must return to the Auditor all three-dollar poll-tax receipts received by him and not used, and must make final settlement with the Auditor and Treasurer therefor.

SEC. 95. Section three thousand eight hundred and fifty-eight is hereby amended so as to read as follows:

3858. On the last Monday in December of each year, the Assessor must deliver to the Auditor the roll so made up, and the Auditor must add to the total poll tax delinquent on such roll, thirty-three and one third per centum additional, and on the second Monday in January following, deliver such list to the Tax Collector and charge the Tax Collector therewith.

SEC. 96. Section three thousand eight hundred and sixty-seven is hereby amended so as to read as follows:

3867. Every County Treasurer who neglects or refuses to appear at the office of the Controller and Treasurer at the times specified in this chapter, and then and there to settle and make payment as required by this chapter, shall forfeit to the State of California one thousand dollars, to be recovered in an action brought by the Attorney-General in the name of the Controller.

SEC. 97. Section three thousand eight hundred and seventy is hereby amended so as to read as follows:

3870. Every Auditor who fails or refuses to make and transmit the report required by this chapter, or any report or statement required by this title, forfeits to the State of California one thousand dollars, to be recovered in an action brought by the Attorney-General in the name of the Controller.

SEC. 98. Section three thousand eight hundred and seventy-one is hereby amended so as to read as follows:

3871. In the settlement, the Controller must deduct the mileage allowed to the County Treasurer in making settlement,

the State's portion of the repayments made under section three thousand eight hundred and twenty-four, the State's portion of all amounts refunded under section three thousand eight hundred and four, and any other amounts due the county, or city and county.

Sec. 99. Section three thousand eight hundred and seventy-three is hereby amended so as to read as follows:

3873. The Controller must, after the Treasurer has made settlement and payment, enter upon each copy of the Auditor's report a statement showing:

1. The amount of money by the County Treasurer paid into the State Treasury.

2. The amounts authorized to be deducted under section three thousand eight hundred and seventy-one.

And must then return one copy of the report to the County Treasurer.

Sec. 100. Section three thousand eight hundred and seventy-eight is hereby amended so as to read as follows:

3878. If he believes any officer has been guilty of defrauding the State of revenue, or has neglected or refused to perform any duty relating to the revenue, he must direct the Attorney-General, or other counsel, to prosecute the delinquent.

Sec. 101. Section three thousand eight hundred and eighty-one is hereby amended so as to read as follows:

3881. Omissions, errors, or defects in form in any assessment book, when it can be ascertained therefrom what was intended, may, with the written consent of the District Attorney, be supplied or corrected by the Assessor at any time prior to the sale for delinquent taxes, after the assessment was made. In the City and County of San Francisco the written consent of the City and County Attorney shall have the same force and effect as the written consent of the District Attorney.

Sec. 102. Section three thousand eight hundred and eighty-six is hereby repealed.

Sec. 103. Section three thousand eight hundred and eighty-eight is hereby amended so as to read as follows:

3888. Taxes must be paid in the lawful money of the United States. A tax levied for a special purpose may be paid in such funds as may be directed.

Sec. 104. Section three thousand eight hundred and ninety-three is hereby repealed.

Sec. 105. Section three thousand eight hundred and ninety-four is hereby repealed.

Sec. 106. Section three thousand eight hundred and ninety-five is hereby repealed.

Sec. 107. Section three thousand eight hundred and ninety-six is hereby repealed.

Sec. 108. Section three thousand eight hundred and ninety-seven is hereby amended so as to read as follows:

3897. Whenever the State shall become the owner of any property sold for taxes, and the deed to the State has been filed with the Controller, as provided in section three thousand seven hundred and eighty-five, the Controller may thereupon, by a

written authorization, direct the Tax Collector of the county, or city and county, to sell the property in the manner following: He must give notice of such sale by first publishing a notice for at least three successive weeks in some newspaper published in the county, or city and county, or, if there be no newspaper published therein, then by posting a notice in three conspicuous places in the county, or city and county, for the same period. Such notices must state specifically the place of, and the day and hour of sale, and shall contain a description of the property to be sold, and shall also embody a copy of the authorization received from the Controller. At the time set for such sale, the Tax Collector must sell the property described in the Controller's authorization and said notices, at public auction, to the highest bidder for cash, in lawful money of the United States; but no bid shall be received or accepted at such sale for less than the amount of all the taxes levied upon such property, and all interests, costs, penalties, and expenses up to the date of such sale. The expense of the publication of the notice herein required, shall be a charge against the county.

SEC. 109. Section three thousand eight hundred and ninety-eight is hereby amended so as to read as follows:

3898. The moneys received from such sale shall be distributed as follows: The Tax Collector shall deduct the penalties, costs, and other amounts received as expenses attending such sale, and the balance shall be distributed between the State, and county, or city and county, in the proportion that the State rate bears to the county, or city and county rate of taxation; said Tax Collector shall pay all amounts into the County Treasury, and the Treasurer shall account to the State for its portion in the settlement required by section three thousand eight hundred and sixty-five and section three thousand eight hundred and sixty-six. On receiving the amount bid, as prescribed in the preceding section, the Tax Collector must execute a deed to the purchaser, reciting the facts necessary to authorize such sale and conveyance, which deed shall convey all the interest of the State in and to such property, and shall be *prima facie* evidence of all facts recited therein.

SEC. 110. Section three thousand eight hundred and ninety-nine is hereby amended so as to read as follows:

3899. The Controller may, at any time after a delinquent list has been delivered to a Tax Collector, direct such Tax Collector not to proceed in the sale of any property on said list whereon the taxes shall amount to three hundred dollars or more. Upon such direction, the Tax Collector must make out, and deliver to the Controller, a certified copy of the entries upon the delinquent list relative to such tax. The Controller shall thereupon direct the Attorney-General to bring suit against the delinquent, in the proper Court, in the name of the People of the State of California, to enforce such collection. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials, and appeals, are hereby made applicable to the proceedings herein provided for. The moneys received in pursuance of this section shall be distributed as provided in the preceding section.

SEC. 111. Section three thousand nine hundred is hereby amended so as to read as follows:

3900. Whenever, in this title, any official, or officials, are authorized to commence an action for the violation of any law relating to revenue, or to compel the specific performance thereof, such official, or officials, may designate the county, or city and county, in which such action shall be commenced and prosecuted.

SEC. 112. All Acts and parts of Acts in conflict with this Act are hereby repealed; *provided*, nothing in this Act contained shall affect the time or manner of collecting delinquent assessments levied and assessed to pay the damages, costs, and expenses for or incident to the laying out, opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities in this State, nor the time or manner of sales, or redemption after sales, of real property sold to pay the damages, costs, and expenses incident to such work or improvement aforesaid; and the time and manner of sale, or redemption after sale, of any real property sold to pay the damage, cost, and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in part, any street, square, lane, alley, court or place within municipalities in this State, shall be had and made in the same time and manner, as provided by law in such matters on the first day of January, Anno Domini eighteen hundred and ninety-five.

SEC. 113. This Act shall take effect and be in force from and after its passage.

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## CHAPTER CCXX.

*An Act to provide for the payment of all private claims allowed by the Legislature of the thirty-first session, out of the revenues of the forty-seventh fiscal year.*

[Approved March 28, 1896.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. All private claims allowed and directed or authorized to be paid by the Legislature of this State, at its thirty-first session, out of the General Fund, shall only be payable out of the income of the forty-seventh fiscal year.

SEC. 2. The Board of Examiners are authorized and empowered to investigate the items of any claim passed by the Legislature, and directing payment thereof, and if in the opinion of the Board of Examiners, any reduction should be made in the amount allowed or directed or authorized to be paid, the said Board of Examiners shall certify said amount to be deducted from the said claim, and the Controller is authorized and directed to draw his warrant only for the amount of money so

certified by the Board of Examiners as the proper and just amount to be paid. Nothing herein shall authorize or empower the Board of Examiners to increase the amount allowed by the Legislature.

SEC. 3. All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

SEC. 4. This Act shall take effect immediately.

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## CHAPTER CCXXI.

*An Act to add a new article to chapter one, of title two, part three, of the Political Code of the State of California, to be known and designated as article four; and to add six new sections, to be known and designated as sections one thousand and seventy-five, one thousand and seventy-six, one thousand and seventy-seven, one thousand and seventy-eight, one thousand and seventy-nine, and one thousand and eighty, relative to County, City, and City and County Boards of Election Commissioners.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. A new article is hereby added to chapter one, title two, part three, of the Political Code of the State of California, to be known and designated as article four; and six new sections are hereby added to said Political Code, under said new article, to be known and designated as sections one thousand and seventy-five, one thousand and seventy-six, one thousand and seventy-seven, one thousand and seventy-eight, one thousand and seventy-nine, and one thousand and eighty, to read as follows:

## ARTICLE IV.

### CITY, CITY AND COUNTY, AND COUNTY BOARDS OF ELECTION COMMISSIONERS.

- 1075. Board of Election Commissioners.
- 1076. Powers to be exercised by Commissioners.
- 1077. Clerks of Boards.
- 1078. Duties of Clerks.
- 1079. Expenditure of moneys.
- 1080. Statutes continued in force.

1075. The Board of Supervisors of each county is ex officio the Board of Election Commissioners in and for the county, and the Common Council, or other governing body of a city, is ex officio the Board of Election Commissioners in and for such city; *provided*, that in cities and cities and counties of this State having one hundred and fifty thousand or more inhabitants the Board of Election Commissioners shall consist of four persons, citizens and electors of such city, or city and county, each of whom must be a freeholder, and have been an actual resident of said city and county at least five years pre-

ceding his appointment, who shall be appointed by the Mayor; *provided*, that the respective Executive Committees of the State Committees of either of the political parties who may be entitled under the provisions of this Act to have members of their party appointed as members of said Board of Election Commissioners, shall have the right, within ten days after such appointment, to file with the Mayor a written protest against the appointment of a member of said Board of Election Commissioners, as having been appointed as one of affiliation with said party, on the grounds that said appointee is not a person of well-known affiliation and standing with said party from which he has been appointed; and the Mayor thereupon shall make another appointment in the place of the party against whom the protest has been filed. The members of said Commission shall be ineligible to any other office or public employment, elective or appointive, during the term for which they have been appointed and for one year thereafter. Two of the persons so appointed shall be selected from the body of citizens and electors of such city, or city and county, of known affiliation with and belonging to the political party or organization which at the last Presidential election held in such city, or city and county, polled within said city, or city and county, the highest number of votes cast for the candidates of the political party for Presidential Electors at such election; and the two remaining members of said Board shall be selected from the body of electors of such city, or city and county, of known affiliation with and belonging to the political party which, at the last Presidential election held at such city, or city and county, polled within such city, or city and county, the next highest number of votes cast for the candidates for Presidential Electors of a political party. The members of said Commission shall, every two years, choose one of their number as Chairman; in the event of their failure to select a Chairman in five ballots, the oldest of said members in point of years shall be Chairman. The persons first appointed as such Board of Election Commissioners shall be appointed on the first Monday of July, eighteen hundred and ninety-five, and shall each hold their office for the term of four years from and after the date of their appointment, except that of those first appointed, two (one belonging to each political party or organization, as aforesaid), to be designated by the Mayor, shall retire at the end of two years, when their successors shall be appointed by the Mayor. Whenever any vacancy shall occur in the said Board, such vacancy shall be filled by appointment as herein prescribed, and the person so appointed to fill such vacancy shall be selected in the same manner and from the same political party or organization with which his predecessor in office affiliated and belonged at the time of his appointment thereto, and shall hold office for the balance of the unexpired term to which he was appointed. The salary of each member of the Board of Election Commissioners in and for a city, or city and county, having one hundred thousand or more inhabitants, shall be seven hundred and fifty dollars per annum, payable in equal

monthly installments, out of the treasury of such city, or city and county, in the same manner as the salaries of other officers of such city, or city and county, are paid.

1076. The Board of Election Commissioners, as provided for in this article, shall, within their respective counties, cities, or cities and counties, be invested with and shall exercise all the powers conferred, and shall discharge and perform all the duties imposed by this Code or by any law of this State, upon Boards of Supervisors of the several counties, or upon the Common Council or other governing body of cities, or upon any other Board or body, in respect to the conduct, control, management, and supervision of elections, and all matters pertaining to elections held within the respective counties, cities, or cities and counties, as the same are now or may be hereafter prescribed by law.

1077. The County Clerk is *ex officio* Clerk of the Board of Election Commissioners of the county, and the Clerk or Secretary of the Common Council or other governing body of a city is *ex officio* the Clerk or Secretary of the Board of Election Commissioners; *provided*, that in cities, or cities and counties, of this State having one hundred and fifty thousand or more inhabitants, the Board of Election Commissioners shall appoint a suitable person, not one of their own number, to act as Secretary, at a salary not to exceed two hundred and fifty dollars per month, payable in the same manner as the salaries of the Commissioners are paid. Such Secretary shall hold his office during the pleasure of the said Board.

The Secretary of the Board of Election Commissioners shall not, during the term of his office, engage in any other calling or trade, or profession or employment, and shall be ineligible to be a candidate or delegate to any convention which shall nominate candidates for office, and he shall be ineligible to be voted for for any office while acting as such Secretary; and if these provisions of the law are not obeyed, it shall be the duty of the Board of Election Commissioners forthwith to declare his place vacated, and the vacancy shall be filled in the same manner and terms as provided for in the original appointment.

Each member of the Board of Election Commissioners, and the Secretary elected by said Board of Election Commissioners, shall, within fifteen days after receiving notice of their appointment, take the usual oath of office before any Judge of the Superior Court of said county, or city and county, and said oaths of office shall be filed with the County Clerk of said city and county.

The Board of Election Commissioners shall have the power to appoint all deputies, and such clerks as may be necessary, and to fix their salaries at the time of their employment. All deputies and clerks thus appointed shall be equally divided between the representatives of the political parties that polled the highest and the next to the highest number of votes at the preceding Presidential election. The salaries of all deputies and clerks that may be appointed by said Board of Election Commissioners shall be payable in equal monthly installments.

out of the treasury of said city, or city and county, in the same manner as the salaries of other officers of such city, or city and county, are paid.

The members of the Board of Election Commissioners, the Secretary of the Board of Election Commissioners, all deputies and clerks appointed by the Board of Election Commissioners, and all election officers, shall have the power to administer oaths; and any false oaths taken before them, or either of them, shall be deemed to be perjury, and the person so convicted thereof shall be punished according to law.

1078. The County Clerk of each county, and the Clerk or Secretary of the Common Council of a city, shall, within their respective counties or cities, exercise all the powers conferred, and shall discharge and perform all the duties imposed by this Code, or by any law of this State, upon such officers in respect to the conduct, management, and supervision of elections, and matters pertaining to elections, held within the respective counties or cities, as the same are now or may be hereafter prescribed by law; *provided*, that in cities, or cities and counties, having one hundred and fifty thousand or more inhabitants, the Secretary of the Board of Election Commissioners, under the direction of the Board of Election Commissioners, shall exercise all the powers conferred, and shall discharge and perform all the duties imposed by this Code, or by any law of this State, upon the County Clerk or any other officer in such cities, or cities and counties, in respect to the conduct and supervision of matters relating to elections held within such cities, or cities and counties, as the same are now or may be hereafter prescribed by law.

1079. Whenever the Clerk, Secretary, or any officer of a county, city, or city and county, is charged with the performance of any official duty in respect to elections which involves the expenditure of public moneys, such expenditures shall be subject to the control and supervision of the Board of Election Commissioners; and when any printing or other service is to be performed, or materials are to be furnished, the amount of which in the aggregate shall exceed the value of five hundred dollars, it shall be the duty of the Board of Election Commissioners to invite proposals for the work, or the furnishing of the materials, and to let the contract for the same to the lowest responsible bidder therefor, in the same manner and upon the same conditions as is required in the letting of contracts for doing other and similar work, or furnishing other and similar materials, for county, city, or city and county purposes; *provided*, that no such proposal or bid shall be required for the contract to print ballots, if the time within which such ballots must be had does not reasonably admit of such proposal and bid.

1080. Nothing contained in this article affects any of the provisions of this Code, or of any statute of this State, touching the registration and qualification of voters and the method of calling, holding, and conducting elections, in force in any county, city, or city and county; but such provisions and statutes are recognized as continuing in force, except so far as

they are inconsistent with the provisions of this article upon the subject to which this article relates.

Sec. 2. This Act shall take effect and be in force from and after the first day of July, eighteen hundred and ninety-five.

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## CHAPTER CCXXII.

*An Act to create and establish a Commission for revising, systematizing, and reforming the laws of this State, and for the appointment of the members of said Commission, to be known as "The Commissioners for the Revision and Reform of the Law," and to prescribe their powers and duties; and to authorize the appointment of a Secretary and Stenographer therefor; and to provide for the compensation and expenses of said Commission, Secretary, and Stenographer, and to appropriate money therefor.*

[Approved March 28, 1895.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

### *The Commission.*

SECTION 1. A non-partisan Commission, consisting of three persons as hereinafter designated, is hereby created and established, for the purposes of revising, compiling, correcting, amending, systematizing, improving, and reforming the laws of this State, for the advancement and welfare of the people thereof.

### *Qualifications of Members.*

SEC. 2. The members of said Commission shall be known and designated as "The Commissioners for the Revision and Reform of the Law," and the term of office shall be two (2) years from and after the first day of April, eighteen hundred and ninety-five. They shall not belong to the same political party, but shall be members of the legal profession who have for more than five years prior to their appointment been engaged in the practice of the law in this State, and admitted to practice before the Supreme Court. Each shall be appointed from and represent a separate portion of the State.

### *Manner of Appointment.*

SEC. 3. Said Commissioners shall be appointed by the Governor within ten days from the passage of this Act. In case of a vacancy or vacancies in said Commission by death, resignation, removal, or otherwise, a successor or successors to fill such vacancy or vacancies for the unexpired term shall be appointed in like manner.

### *Notice of Appointment.*

SEC. 4. The Secretary of State shall, after the passage of this Act and the appointment of such Commissioners, immediately notify each appointee thereof, and issue to each appointee a commission, under the great seal of this State, notifying him of the passage of said Act and of his appointment by the Governor. Each appointee shall immediately upon receiving said

notice of his appointment, if he accepts the same, take and subscribe an oath of office, which shall be filed in the office of the Secretary of State.

*Organization of Commission.*

SEC. 5. The Commission shall hold its sessions in a room to be provided by the Secretary of State, in the State Capitol, and shall enter upon the discharge of its duties immediately after its organization. Said Commissioners shall select and adopt a suitable seal for the authentication of their acts, records, and proceedings, and adopt and provide for the publication of such reasonable and proper rules and regulations for the conduct of the business of said Board, and for the promotion of the objects intended to be advanced by this Act. They shall, thereupon, select and appoint a Secretary and Stenographer, to hold office during the pleasure of said Board, who shall attend all the sittings of said Board, and act under its supervision.

*Powers and Duties.*

SEC. 6. 1. It shall be the duty of said Commissioners to revise and examine the Political Code, the Civil Code, the Code of Civil Procedure, and the Penal Code of the State of California.

2. To revise and examine all the statutes of this State that have been or shall hereafter be passed by the Legislature thereof and published by the State.

3. They shall ascertain, determine, and designate, according to their best judgment, those statutes now in force, and those expressly or by implication repealed.

4. They shall note and designate the errors, defects, or omissions, verbal, grammatical, or otherwise, and suggest what will be necessary to supply, correct, or amend the same, and such improvements as shall introduce precision and clearness into the wording of the codes and statutes.

5. All or any of the reports, records, or proceedings of said Commission shall be printed by the State Printer, on the requisition of said Board, when so ordered and directed by said Board,

6. Said Board shall have power to order the State Printer to print and deliver to the Secretary of said Board such number as said Board may designate of any report, record, or proceedings of said Board.

7. Said Commissioners, or either of them, upon the request of the Legislature, or a duly appointed committee thereof, shall attend at the Capitol during the sitting of said session of the Legislature, and act as legislative counsel or adviser, in drafting or passing upon the form of any bill, or proposed bill, pending or to be introduced before the Legislature; and also, when requested, give advice to said Legislature, or such committee, as to the form of any proposed legislation, and its effect upon existing laws, and as to whether said bill, as drawn and presented, is so constructed and worded as to carry out the purpose intended.

8. Thirty days prior to every session of the Legislature, said Board shall make and file with the Secretary of State a report of their transactions relating to legislative matters, or which

would give any information or knowledge to said Legislature as to legislation in the past, and as to the policy for future legislation. And they shall also report to said Legislature such suggestions as they deem proper for the promotion of the public welfare and the best interests of the State, or any locality or citizens thereof, and file therewith schedules or exhibits, showing the form or substance of all proposed legislation which they recommend. And they shall suggest all such improvements as shall conduce to precision and clearness in the wording of the codes and statutes, and propose such measures as may be necessary to improve or give unity and completeness to the system of the laws of this State. Said reports, schedules, and exhibits shall be printed by the State Printer, upon the requisition and under the supervision of the Commissioners. They shall be so printed as to show, in the readiest manner, the changes proposed by the Commission, and in those cases wherein it shall recommend the repeal of a law, and propose a substitute therefor, such law and substitute shall be printed in the manner most convenient for comparison.

9. Said Board shall at all such times as they may designate by rules and regulations which they may adopt, sit in open session and hear such printed or oral arguments as may be addressed to them, for or against any proposed or existing legislation. All such sessions of the Board shall be open to the public, and a record of all proceedings shall be kept and preserved by the Secretary of said Board.

*Compensation.*

SEC. 7. 1. Said Commissioners shall receive for their services, from the State, the sum of four thousand dollars each per annum; such compensation shall be paid in the same manner as the salaries of the Justices of the Supreme Court are now paid.

2. The Secretary of the Commission shall receive the sum of two hundred dollars (\$200) per month, and the Stenographer one hundred dollars (\$100) per month, payable in like manner as the salaries are paid to the members of said Commission.

3. The expenses incurred by said Commission, or the members thereof, exclusive of salaries, shall be set forth in detail in an itemized statement, and thereupon a requisition shall be made by said Board of Commissioners upon the State Controller, accompanied by the sworn certificates of all the Commissioners that the services have been performed and the materials used or things furnished, and that said sums are justly due.

4. And said State Controller is hereby directed to draw his warrant on the Treasurer for the payment of said salaries, when due and payable, as herein provided. And also for such sums as are covered by said requisitions, and the Treasurer is hereby directed to pay the same out of any money not otherwise appropriated.

SEC. 8. This Act shall take effect and be in force from and after the date of its passage.

## PROPOSED CONSTITUTIONAL AMENDMENTS.

### CHAPTER VI.

*Assembly Constitutional Amendment No. 33, relative to amending the Constitution of State of California, by repealing sections four and five of article thirteen, and by amending section one of said article.*

[Adopted February 14, 1895.]

The Legislature of the State of California, at its regular session, commencing on the seventh day of January, eighteen hundred and ninety-five, two thirds of all the members elected to each of the houses of said Legislature voting in favor thereof, hereby propose that the Constitution of the State of California be amended by repealing sections four and five of article thirteen thereof, and by amending section one of said article, so as to read as follows:

Section 1. All property in the State not exempt under the laws of the United States, or this Constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matter and things, real, personal, and mixed, capable of private ownership; *provided*, that property used for free public libraries and free public museums, growing crops, mortgages, trust deeds, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, shall be exempt from taxation. The Legislature may provide for a reduction from credits of debts due *bona fide* residents of this State.

SEC. 2. Section four of article thirteen of this Constitution is hereby repealed.

SEC. 3. Section five of article thirteen of this Constitution is hereby repealed.

### CHAPTER VIII.

*Senate Constitutional Amendment No. 8, a resolution to propose to the people of the State of California an amendment to the Constitution of the State, amending section five of article two thereof, relative to the manner of voting.*

[Adopted February 20, 1895.]

The Legislature of the State of California, at its thirty-first session, commencing on the seventh day of January, Anno Domini one thousand eight hundred and ninety-five, two

thirds of all the members elected to each house of said Legislature voting in favor thereof, hereby propose that section five of article two of the Constitution of the State of California be amended so as to read as follows:

Section 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; *provided*, that secrecy in voting be preserved.

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## CHAPTER XVIII.

*Assembly Constitutional Amendment No. 19, proposing an amendment to section three of article twelve of the Constitution of the State of California, relative to corporations, for the purpose of limiting the liability of stock or share holders, and fixing the liability of Directors or Trustees.*

[Adopted March 9, 1895.]

*Resolved by the Assembly, the Senate concurring,* That the Legislature of the State of California, at its regular session commencing on the seventh day of January, Anno Domini one thousand eight hundred and ninety-five, two thirds of all the members elected to each house concurring, hereby propose that section three of article twelve of the Constitution of said State be amended so as to read as follows:

Section 3. The liability of stockholders of corporations or joint-stock associations shall be limited by the face value of the shares of the subscribed capital stock or shares of such corporation or association; and whenever any shares have been fully paid up, the holder of such shares shall not be further liable to such corporation or association, or the creditors thereof, on that account. Each stockholder of a corporation or joint-stock association, whose capital stock is not fully paid up, shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred during the time he was a stockholder or shareholder, as the amount unpaid upon the stock or shares owned by him bears to the whole amount unpaid upon the subscribed capital stock or shares of the corporation or association. The Directors or Trustees of corporations and joint-stock associations shall be jointly and severally liable to the creditors and stockholders for all moneys embezzled or misappropriated by the officers of such corporation or joint-stock association, during the term of office of such Director or Trustee.

## CHAPTER XXIII.

*Senate Constitutional Amendment No. 25, proposing to the people of the State of California an amendment to section six, article eleven, of the Constitution of the State of California.*

[Adopted March 16, 1895.]

*Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its regular session, commencing on the seventh day of January, in the year one thousand eight hundred and ninety-five, two thirds of all the members elected to each house concurring, hereby propose that section six of article eleven of the Constitution of said State be amended so as to read as follows:*

Section 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, except in municipal affairs, shall be subject to and controlled by general laws.

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## CHAPTER XXIV.

*Senate Constitutional Amendment No. 18, to propose to the people of the State of California an amendment to the Constitution of the State, amending article eleven, relating to cities, counties, and towns.*

[Adopted March 16, 1895.]

*Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its regular session, commencing on the seventh day of January, eighteen hundred and ninety-five, two thirds of all the members elected to each house concurring, hereby proposes that article eleven of the Constitution of said State be amended by adding thereto a section, to be numbered eight and one half, and which said section is as follows, to wit:*

Section 8½. It shall be competent, in all charters framed under the authority given by section eight of article eleven of this Constitution, to provide, in addition to those provisions allowable by this Constitution and by the laws of the State, as follows:

1. For the constitution, regulation, government, and jurisdiction of Police Courts, and for the manner in which, the times at which, and the terms for which the Judges of such Courts shall be elected or appointed, and for the compensation of said Judges and of their clerks and attachés.

2. For the manner in which, the times at which, and the terms for which the members of Boards of Education shall be elected or appointed, and the number which shall constitute any one of such Boards.

3. For the manner in which, the times at which, and the terms for which the members of the Boards of Police Commissioners shall be elected or appointed, and for the constitution, regulation, compensation, and government of such Boards and of the municipal police force.

4. For the manner in which, the times at which, and the terms for which the members of all Boards of Election shall be elected or appointed, and for the constitution, regulation, compensation, and government of such Boards, and of their clerks and attachés; and for all expenses incident to the holding of any election.

Where a city and county government has been merged and consolidated into one municipal government, it shall also be competent in any charter framed under said section eight of said article eleven, to provide for the manner in which, the times at which, and the terms for which the several county officers shall be elected or appointed, for their compensation, and for the number of deputies that each shall have, and for the compensation payable to each of such deputies.

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## CHAPTER XXVII.

*Assembly Constitutional Amendment No. 11, a resolution to propose to the people of the State of California an amendment to section one of article two of the Constitution, in relation to the right of suffrage.*

[Adopted March 16, 1895.]

*Resolved by the Assembly, the Senate concurring,* That the Legislature of the State of California, at its regular session, commencing on the seventh day of January, Anno Domini one thousand eight hundred and ninety-five, two thirds of the members elected to each of the two houses voting in favor thereof, hereby propose that section one of article two of the Constitution of the State of California be amended to read as follows:

Section 1. Every native citizen of the United States, every person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding

the election, and of the county in which he or she claims to vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language, and write his or her name, shall ever exercise the privilege of an elector in this State; *provided*, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age and upward at the time this amendment shall take effect.

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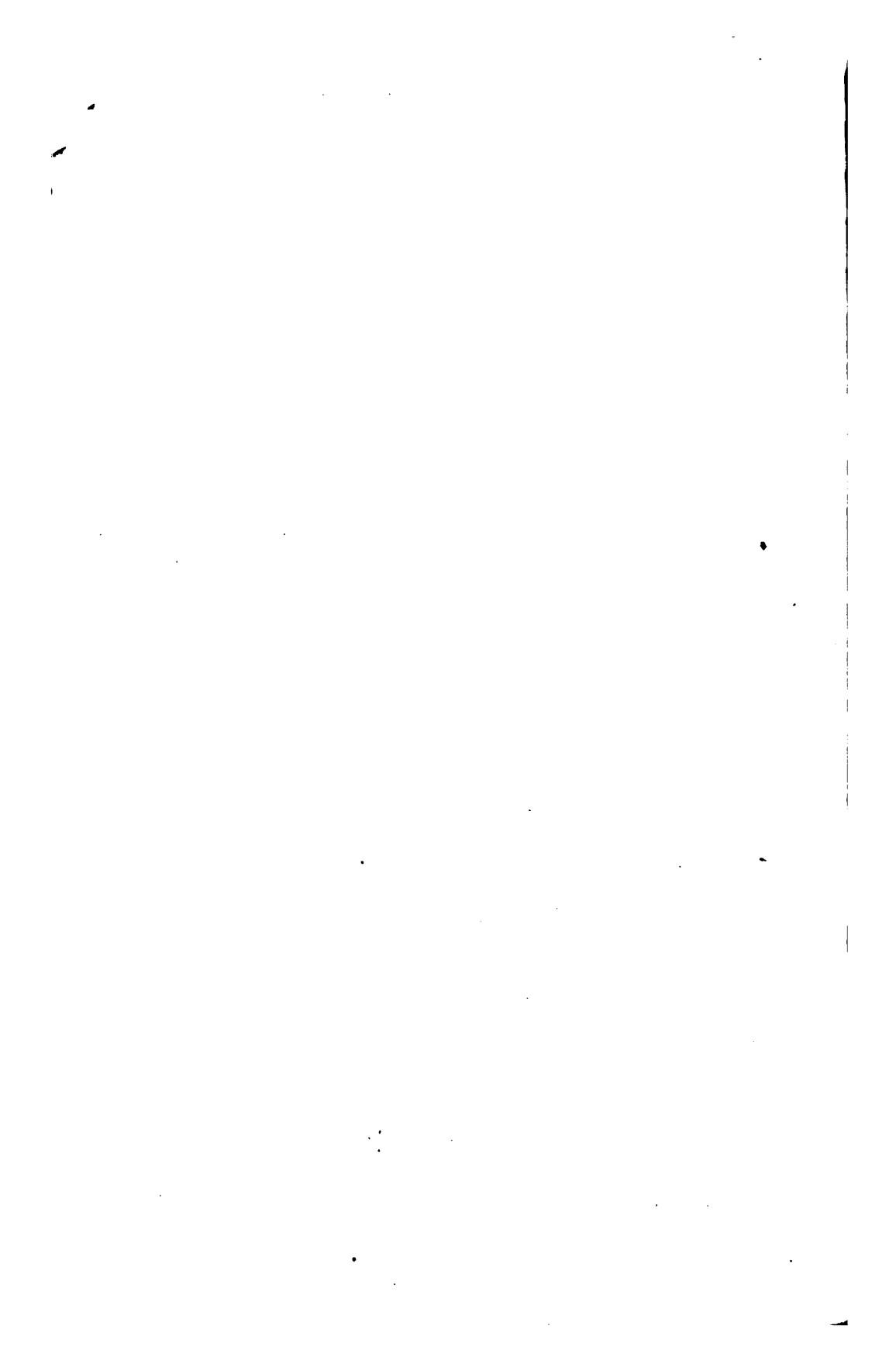
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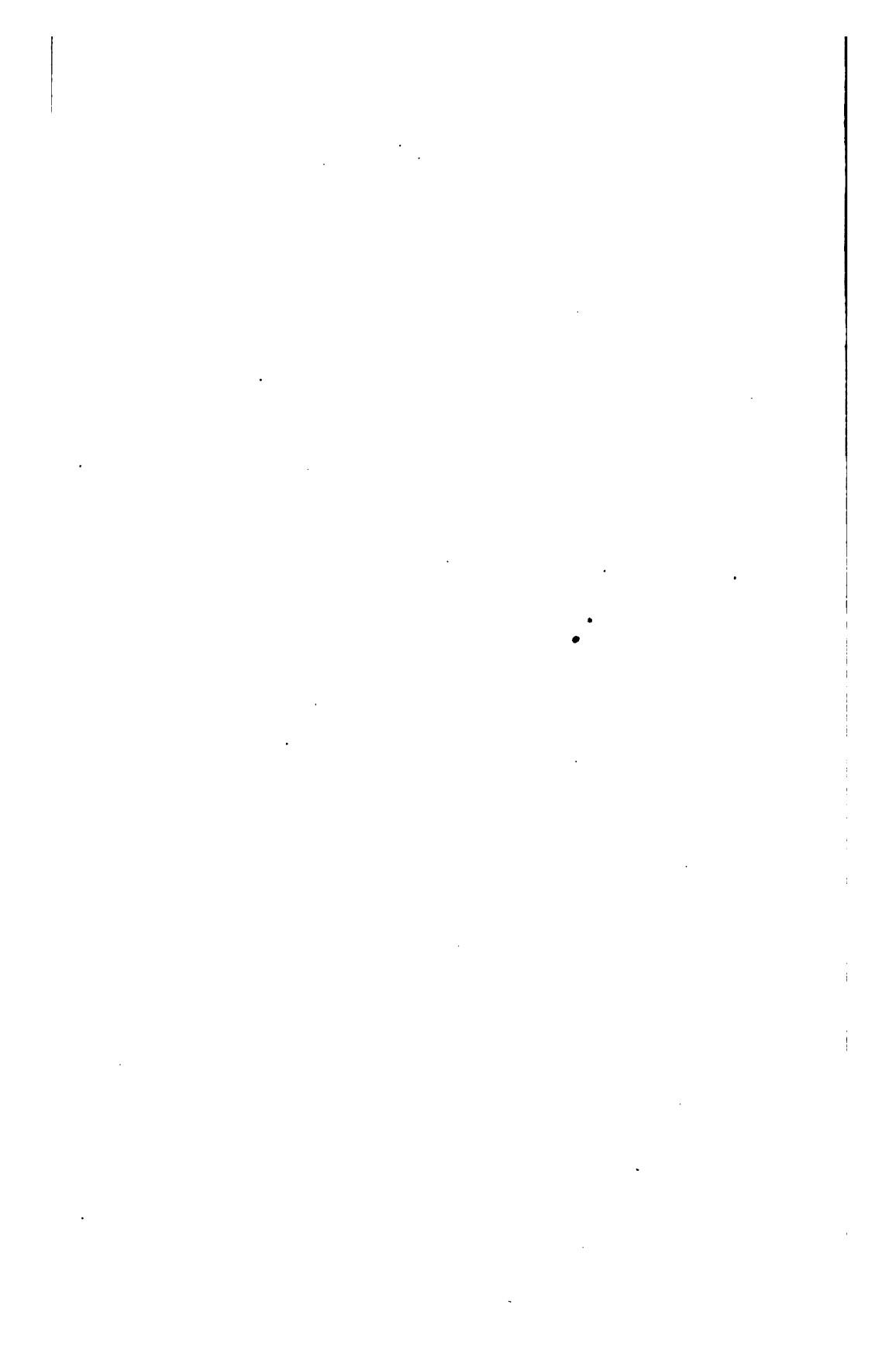
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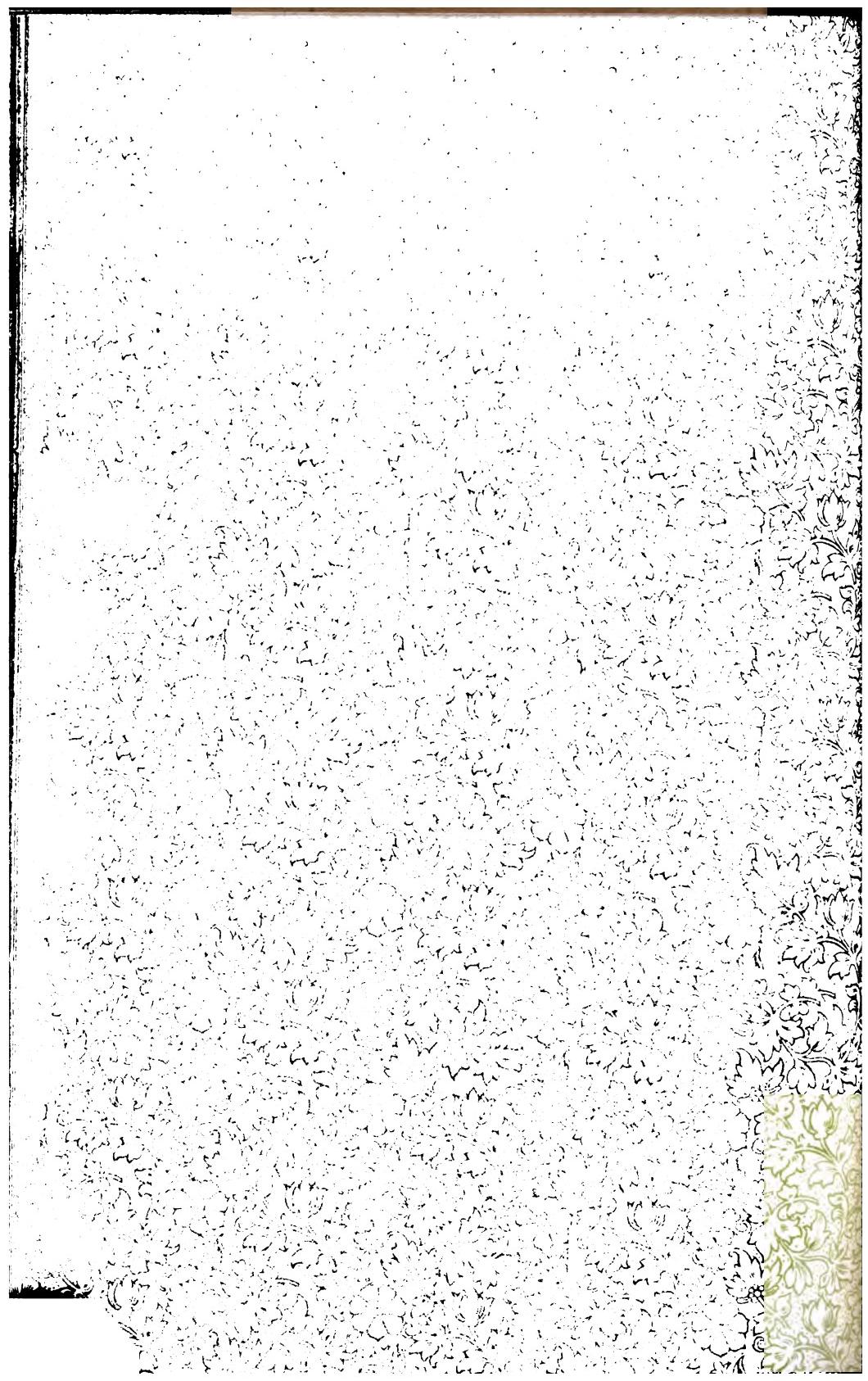
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